

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/Senate Bill No. 540, Page 1, Section Title, Lines 4-5,

2 by striking all of said lines; and further amend line 7 of said
 3 title by striking "motor fuel taxes" and inserting in lieu
 4 thereof "transportation"; and

5 Further amend said bill and page, section 142.803, line 10
 6 of said page, by striking all of said line and inserting in lieu
 7 thereof the following: "31, 2015. Thereafter, such tax shall be
 8 eighteen and one-half cents per gallon except on diesel fuel.
 9 Beginning January 1, 2016, the tax on diesel fuel shall be twenty
 10 and one-half cents per gallon"; and

11 Further amend said bill and section, page 3, line 24, by
 12 inserting after all of said line the following:

13 "3. The provisions of this section shall be effective
 14 August 28, 2015, provided however that the provisions of
 15 subdivisions (4) to (6) of subsection 1 of this section shall
 16 become effective January 1, 2016."; and

17 Further amend said bill, pages 3-4, section 142.803, by
 18 striking all of said section from the bill and inserting in lieu
 19 thereof the following:

20 "238.500. 1. Sections 238.500 to 238.580 may be cited as
 21 the "Public-Private Partnership Authority Act" or the "P3

1 Authority Act".

2 238.510. As used in sections 238.500 to 238.580, the
3 following terms mean:

4 (1) "Contract", any purchase and sale agreement, lease,
5 service agreement, franchise agreement, concession agreement or
6 other written agreement entered into under sections 238.500 to
7 238.580 with respect to the provision of a public service and any
8 related project;

9 (2) "Department", the Missouri department of
10 transportation;

11 (3) "Private sector entity", any corporation, whether for
12 profit or not for profit, limited liability company, partnership,
13 limited liability partnership, sole proprietorship, business
14 trust, joint venture, or other entity, whether foreign or
15 domestic, but shall not mean the state, a political subdivision
16 of the state, or a public or governmental entity, agency, or
17 instrumentality of the state;

18 (4) "Project", includes construction, reconstruction,
19 rehabilitation, renovation, installation, or enlargement of any
20 bridge, street, road, highway, access road, interchange,
21 intersection, signing, signalization, shelter, or rest area and
22 any similar or related improvement to transportation
23 infrastructure as part of Interstate 70 in existence as of August
24 28, 2015;

25 (5) "Proposer", a private sector entity, a local or
26 regional public entity or agency, or any group or combination
27 thereof, submitting qualifications or a proposal for a public-
28 private partnership contract;

29 (6) "Public service", a service provided for a public

1 purpose of the department and identified in a request for
2 qualifications or proposals under sections 238.500 to 238.580;

3 (7) "User fees", tolls, fees, rents, or other charges
4 authorized to be imposed by the department and collected by the
5 private sector entity under the terms of a public-private
6 partnership agreement.

7 238.530. 1. There is established a board to be known as
8 the "Building Missouri's Future Board".

9 (1) The board shall be composed of three members to be
10 appointed by the governor by and with the advice and consent of
11 the senate.

12 (2) Gubernatorial appointees shall have significant
13 expertise and experience in one or more of the following fields:

14 (a) Transportation;

15 (b) Finance; or

16 (c) Land use and planning.

17 (3) All appointees shall be citizens of the state of
18 Missouri.

19 (4) Initial members of the board shall serve staggered
20 terms with one member serving one year, the second member serving
21 two years, and third member serving three years.

22 (5) Appointee terms thereafter shall be for three years.
23 No appointee may hold a position on the board for longer than two
24 terms.

25 (6) Vacancies shall be filled for the duration of the
26 original term.

27 (7) The chairmanship of the board shall rotate on an annual
28 basis among the three members of the board.

29 2. The duties and functions of the board shall include

1 approval of any proposed contract between the department and a
2 private sector entity to establish a public-private partnership
3 agreement under the terms of section 238.550.

4 3. The board may incur such other reasonable and proper
5 costs and expenses as are related to the duties and functions
6 allowed by statute.

7 4. The board is authorized to adopt those rules that are
8 reasonable and necessary to accomplish the limited duties
9 specifically delegated within this section. Any rule or portion
10 of a rule, as the term is defined in section 536.010, that is
11 created under the authority delegated in this section shall
12 become effective only if it complies with and is subject to all
13 of the provisions of chapter 536 and, if applicable, section
14 536.028. This section and chapter 536 are nonseverable and if
15 any of the powers vested with the general assembly pursuant to
16 chapter 536 to review, to delay the effective date or to
17 disapprove and annul a rule are subsequently held
18 unconstitutional, then the grant of rulemaking authority and any
19 rule proposed or adopted after August 28, 2015, shall be invalid
20 and void.

21 238.540. The Missouri department of transportation is
22 charged with providing a public service shall have the authority
23 to develop and implement a competitive process for identifying
24 projects to be procured, funded, designed and built through
25 public-private partnerships governed by comprehensive agreements
26 entered into by the department and the selected, qualified
27 proposer.

28 238.550. 1. The department may identify potential projects
29 and public services for which a public-private partnership may be

1 appropriate to improve public operational efficiencies, improve
2 environmental performance, promote public safety, attract private
3 investment in the state, and minimize government liabilities.

4 2. After the department identifies a potential partnership
5 for a project or public service, the department shall conduct a
6 public sector comparator study of the potential partnership. The
7 members of the building Missouri's future board shall determine
8 the scope of each public sector comparator, which scope shall
9 depend on the type of proposed project and the nature of the
10 public service under consideration for the partnership. The
11 following shall be considered as components of a public sector
12 comparator:

13 (1) The definition of the public need served by the
14 proposed partnership;

15 (2) The cost required to meet the public need served by the
16 public service under traditional procurements or traditional
17 public entity or commission operations;

18 (3) An analysis of alternative methods for providing the
19 public services under consideration, including but not limited to
20 design-build, design-build-finance, design-build-fiance-operate-
21 maintain, service contracts or leases, and how the alternative
22 methods would meet the need served by the public service;

23 (4) An evaluation of the costs and benefits of using an
24 alternative method or public-private partnership to render a
25 public service, which shall include:

26 (a) The potential cost of utilizing an alternative method;

27 (b) The operation and technological risks involved in
28 utilizing an alternative method;

29 (c) A comparative analysis of rendering the public service

1 by allowing the department to utilize traditional methods;

2 (d) The financial impact the partnership will have on the
3 department;

4 (e) The impact the partnership is projected to have on job
5 formation, economic growth, and the community in which the public
6 service is to be rendered.

7 3. The department shall develop and use a competitive
8 procurement process to form a public-private partnership for the
9 purpose of developing, financing, or operating a project. The
10 department shall publish notice of the intent to enter into a
11 contract for a partnership for public service or related project
12 and shall publish notice of the intent to enter into a contract
13 for a partnership for public service or related project and shall
14 prepare a request for private sector entities interested in
15 servng as proposers for the partnership. The notice shall
16 notify interested parties of the opportunity to submit their
17 qualifications for consideration and shall be published at least
18 thirty days prior to the deadline for submitting those
19 qualifications. The department also may advertise the
20 information contained in the notice in appropriate and widely
21 available print and electronic public and professional media and
22 otherwise notify as it sees fit those parties believed to be
23 interested in providing the public service and in any related
24 project.

25 4. After inviting qualifications, the department shall
26 evaluate the qualifications submitted and may hold discussions
27 with proposers to further explore their qualifications.
28 Following this evaluation, the department may determine a list of
29 qualified proposers based on criteria in the invitation, and

1 invite only those proposers to submit a proposal.

2 5. The department shall prepare a request for proposal and
3 the proposed partnership contract which shall contain the terms
4 and conditions to carry out and effectuate the purposes of
5 sections 238.500 to 238.580 which may include:

6 (1) The duration of the contract, which shall not exceed
7 seventy-five years;

8 (2) Rates or fees for the public services to be provided or
9 methods or procedures for the determination of such rates or
10 fees;

11 (3) Standards for the public services to be provided;

12 (4) Standards and responsibilities for operation and
13 maintenance of any related project;

14 (5) Required financial assurances;

15 (6) Financial and other data reporting requirements;

16 (7) Bases and procedures for termination of the contract
17 and retaking of possession or title to the project; and

18 (8) Events of default and remedies upon default, including
19 mandamus, suits in equity, actions at law, or any combination of
20 those remedial actions.

21 6. After proposals are received, the department shall
22 evaluate the proposals submitted using the criteria established
23 in its request for proposal and may hold discussions with
24 proposers to further explore their proposals, the scope and
25 nature of the public service or services they would provide, and
26 the various technical approaches they may take regarding the
27 public service and any related project. Following this
28 evaluation, the department shall select the proposer ranked most
29 qualified to provide the public service and shall negotiate and

1 execute a comprehensive agreement establishing the terms for the
2 financing, development, and operation of the project.

3 7. Upon failure to negotiate a comprehensive agreement with
4 the proposer ranked most qualified, the department shall inform
5 the proposer in writing of the termination of negotiations and
6 may enter into negotiations with the proposer ranked next most
7 qualified. If negotiations again fail, the same procedure may be
8 followed with each next most qualified proposer selected and
9 ranked, in order of ranking, until a comprehensive agreement is
10 negotiated and executed.

11 8. If the department fails to negotiate a comprehensive
12 agreement with any of the ranked proposers, the department may
13 terminate the process or select and rank additional proposers,
14 based on their qualifications or proposals, and the negotiations
15 shall continue as with the proposers initially selected and
16 ranked until a comprehensive agreement is negotiated.

17 9. The authorized representative of the department may
18 reject any and all submissions of qualifications or proposals,
19 and may unilaterally terminate the procurement process at any
20 point.

21 238.560. The exercise of the powers granted by sections
22 238.500 to 238.580 will be for the benefit of the people of the
23 state and shall be liberally construed to effect the purposes
24 thereof. As the performance of public services will constitute
25 the performance of essential government functions, any project or
26 part thereof owned by the state and used for performing any
27 public service pursuant to a contract entered into under sections
28 238.500 to 238.580 that would be exempt from taxation or
29 assessments in the absence of such contract shall remain exempt

1 from taxation and assessments levied by the state and its
2 subdivisions to the same extent as if not subject to that
3 contract. The gross receipts and income of a successful proposer
4 derived from providing public services under a contract through a
5 project owned by the state shall be exempt from taxation levied
6 by the state and its subdivisions. Any transfer or lease between
7 a proposer and the state of a project or part thereof, or item
8 included or to be included in the project, shall be exempt from
9 the taxes levied by the state and its political subdivisions if
10 the state is retaining ownership of the project or part thereof
11 that is being transferred or leased.

12 238.570. 1. The department shall have the authority to
13 impose or collect user fees and they shall be empowered to
14 delegate that authority to a private sector entity under the
15 terms of a comprehensive public-private partnership agreement.

16 2. The department may retain or contract for the services
17 of commercial appraisers, engineers, investment bankers,
18 financial advisers, accounting experts, and other consultants,
19 independent contractors, or providers of professional services as
20 are necessary to carry out the department's powers and duties
21 under sections 238.500 to 238.580, including the identification
22 of public services and any related projects to be subject to
23 invitations for qualifications or proposals under sections
24 238.500 to 238.580, the development of those invitations and
25 related evaluation criteria, the evaluation of those invitations,
26 and negotiation of any contract under sections 238.500 to
27 238.580.

28 238.580. If any provision of sections 238.500 to 238.580 or
29 the application thereof to anyone or any circumstances is held

1 invalid, the remainder of those sections and the application of
2 such provisions to others or other circumstances shall not be
3 affected thereby.

4 Section 1. Notwithstanding the provisions of section 1.140
5 to the contrary, the provisions of section 142.803 shall be
6 nonseverable from sections 238.500 to 238.580, and if any
7 provision of sections 238.500 to 238.580 is for any reason held
8 to be invalid, such decision shall invalidate section 142.803.";
9 and

10 Further amend the title and enacting clause accordingly.