



**MISSOURI HIGHWAYS AND TRANSPORTATION
COMMISSION**

Official Minutes

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**MINUTES OF THE REGULARLY SCHEDULED HIGHWAYS AND
TRANSPORTATION COMMISSION MEETING HELD IN JEFFERSON CITY, MISSOURI,
WEDNESDAY, MAY 2, 2018**

A regularly scheduled meeting of the Missouri Highways and Transportation Commission was held on Wednesday, May 2, 2018, at the Department of Transportation building, 105 West Capitol, Jefferson City, Missouri. Gregg C. Smith, Chairman, called the meeting to order at 9:30 a.m. The following Commissioners were present: Michael B. Pace, Michael T. Waters, Jr., John W. Briscoe, Terry L. Ecker, and Robert G. Brinkmann.

The meeting was called pursuant to Section 226.120 of the Revised Statutes of Missouri, as amended. The Secretary verified that notice of the meeting was posted in keeping with Section 610.020 of the Revised Statutes of Missouri, as amended.

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Patrick McKenna, Director of the Missouri Department of Transportation; Rich Tiemeyer, Chief Counsel for the Commission; and Pamela J. Harlan, Secretary to the Commission, were present on Wednesday, May 2, 2018.

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*“Department” or “MoDOT” herein refers to Missouri Department of Transportation.
“Commission” or “MHTC” herein refers to Missouri Highways and Transportation Commission.*

-- CLOSED MEETING --

VOTE TO CLOSE MEETING

The agenda of the closed meeting was posted in keeping with Sections 610.020 and 610.022, RSMo, including the following statutory citations allowing the meeting to be closed:

1. Section 610.021(1) – Legal actions and attorney-client privileged communications.
2. Section 610.021(3), (13) – Personnel administration regarding particular employees.
3. Section 610.021(11), (12) – Competitive bidding specs, sealed bids, or negotiated contracts.

Upon motion duly made and seconded to convene in closed session, the Chairman called for a voice vote of the members. The vote was as follows:

Commissioner Smith, Aye
Commissioner Pace, Aye
Commissioner Waters, Aye
Commissioner Briscoe, Aye
Commissioner Ecker, Aye
Commissioner Brinkmann, Aye

The Commission met in closed session on Tuesday, May 1, 2018 from 2:15 p.m. through 5:50 p.m.

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-- OPEN MEETING --

ANNUAL FORMER COMMISSIONER'S LUNCHEON

The Annual Former Commissioner's Luncheon was held on Tuesday, May 1, 2018, at the Missouri Department of Transportation, 105 West Capitol Avenue, Jefferson City, Missouri. The following current Commissioners were present: Gregg C. Smith, Michael B. Pace, Michael T. Waters, Jr., John W. Briscoe, Terry L. Ecker, and Robert G. Brinkmann.

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APPROVAL OF MINUTES

Upon motion by Commissioner Briscoe, seconded by Commissioner Waters, the Commission unanimously approved the minutes of the regular meeting held February 7, 2018. The Chairman and Secretary to the Commission were authorized and directed to sign and certify said minutes and to file same in the office of the Secretary.

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CONSENT AGENDA

Consent Agenda Process

In order to make the most efficient use of Commission meeting time and to ensure Commission members are well informed on issues requiring their action, staff prepares and submits to the Commission members, in advance of their meeting, internal memoranda consisting of advice, opinions, and recommendations related to the items of the Commission meeting agenda. Those items considered by staff to be of a routine or non-controversial nature are placed on a consent agenda. During the meeting, items can be removed from the consent agenda at the request of any one Commission member. The items that are not removed from the consent agenda are approved with a single motion and unanimous vote by a quorum of the members.

Minutes reflecting approval of items on the consent agenda are singly reported herein and intermingled with minutes reflecting action on related subjects that were openly discussed. Reference to “consent agenda” is made in each minute approved via the process described in the paragraph above. Minutes reflecting action on items removed from the consent agenda and openly discussed reflect the open discussion and vote thereon.

Consideration of May 2, 2018, Consent Agenda

No items were removed from the consent agenda. Upon motion by Commissioner Waters, seconded by Commissioner Pace, the consent agenda items were unanimously approved by a quorum of Commission members present.

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COMMISSION COMMITTEES AND COMMISSION RELATED BOARDS

The Commission has two standing committees: Audit and Legislative. In addition, it elects Commission representatives to two boards: Missouri Transportation Finance Corporation Board of Directors and MoDOT and Patrol Employees’ Retirement System Board of Trustees. The following committee and board reports were made during the May 2, 2018, meeting.

Audit Committee – Commissioner Waters stated there is no report; the committee will meet next in June.

Legislative Committee – Commissioner Pace reported the General Assembly is now in its last few days of the legislative session. Up to this point, the department has been successful in working with elected officials in drafting and proposing a budget for fiscal year 2019 which must be accomplished by May 11 according to the state’s constitution. While many other transportation-related proposals are still being considered during these last days of session, it won’t be known until the last day (May 18) as to whether these proposals have received favorable legislative action. A legislative wrap-up report will be presented at the June meeting.

Missouri Transportation Finance Corporation (MTFC) – Commissioner Smith stated the board met this morning and received its tenth certificate of achievement from the Government Finance Officers

Association for excellence in financial reporting. The board also elected officers and approved the fiscal year 2019 budget. The next MTFC meeting will be in August.

MoDOT and Patrol Employees' Retirement System – Commissioner Pace stated there is no report. The next meeting is tentatively scheduled for June 21, 2018.

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DIRECTOR'S REPORT

During the May 2, 2018, Commission meeting, Director Patrick McKenna provided the following report:

DOMInno - At the annual Design, Operations, Maintenance and Innovation (DOMInno) conference in Springfield last month, there were several members of the Commission in attendance. The director shared a video of the Innovations Challenge that the Communications Division prepared. During the conference, Jim Dickson was recognized for his service to the department and with his pending retirement, the department decided to name the Innovations Showcase People's Choice Award as the Jim Dickson People's Choice Award. Changing the name of the award was to honor Mr. Dickson for his work in starting the Innovations Challenge and developing it into a successful program that improves efficiency and safety throughout the department.

Recognition of Bill Whitfield – Director McKenna recognized Bill Whitfield, MoDOT's Highway Safety Director, who will retire at the end of the month after 35 years of service. Mr. Whitfield is a passionate safety advocate. His compassion for the traveling public is evidenced through his consistent promotion of the department's participation in the Missouri Coalition for Roadway Safety and development of Missouri's Blueprint for Safer Roadways. The coalition is a partnership of safety advocates who work together to address traffic crashes. This effort has been instrumental in saving lives and reducing serious injuries. From 2005 to 2017 there has been a 26-percent reduction in traffic crash fatalities that resulted in a cumulative total of 4,455 lives saved.

Citizens Guide for Transportation Funding – The department's work the past two years with the Citizen's Guide to Transportation Funding, as well as the efforts and recommendations of the 21st Century Missouri Transportation System Task Force is paying off. The Citizens Guide is not to advocate for a particular position on funding, but to show how funds are received by the department, how they are allocated through the state budget, how they are invested in the system, the condition of the system as a result of that investment, and what the unfunded priorities are. The task force delivered

recommendations that were drafted into various legislative proposals. Through this year's legislative session, eighteen House and five Senate transportation funding proposals were filed. Transportation funding is not only a problem for the state of Missouri but the nation as well. Some of these proposals would be a step in the right direction to improve transportation funding in Missouri.

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TRANSPORTATION FUNDING PROPOSALS

On behalf of the Director, Jay Wunderlich, Governmental Relations Director, and Ben Reeser, Assistant Transportation Planning Director, shared the following summary of the various transportation funding proposals pending passage of the General Assembly.

10 ¢ fuel tax - A 10-cent per gallon fuel tax would generate approximately \$4.1 billion over 10 years. The total amount available in today's dollars would be \$3.6 billion. The Missouri Constitution allocates 70 percent of the revenues to the state, 15 percent to cities, and 15 percent to counties. The state would receive \$2.5 billion, cities and counties would both receive \$536 million. This proposal would require voter approval. The fuel tax increase would be the full 10 cents upon the effective date of January 1, 2019.

8.25 ¢ fuel tax - An 8.25-cent per gallon fuel tax increase phased-in over three years would generate approximately \$3.1 billion over 10 years. The total amount available in today's dollars would be \$2.6 billion. The Missouri Constitution allocates 70 percent of the revenues to the state, 15 percent to cities, and 15 percent to counties. The state would receive \$1.8 billion, cities and counties would both receive \$386 million. This proposal would require voter approval. This proposal would be phased in by 2.75 cents per year for three years beginning on the effective date of July 1, 2019. This proposal was developed in negotiations with the Missouri Petroleum Marketers Association.

6 ¢ fuel tax plus indexing – A 6-cent per gallon fuel tax increase phased-in over three years plus annual inflation adjustments after full phase-in would generate approximately \$2.7 billion over 10 years.

The total amount available in today's dollars would be \$2.2 billion. The Missouri Constitution allocates 70 percent of the revenues to the state, 15 percent to cities, and 15 percent to counties. The state would receive \$1.6 billion, cities and counties would both receive \$336 million. This proposal does not require voter approval as it would be part of an overall tax reduction bill. The fuel tax increase would be phased in by 1 cent the first year, 2 cents the second year, and 3 cents the third year beginning on the effective date of July 1, 2019.

Vehicle registration fees - Increasing motor vehicle fees to account for inflation would generate approximately \$2.0 billion over 10 years. The total amount available in today's dollars would be \$1.7 billion. The Missouri Constitution allocates 75 percent of the revenues to the state, 15 percent to cities, and 10 percent to counties. The state would receive \$1.3 billion, cities would receive \$257 million and counties would receive \$171 million. This proposal does not require voter approval as it would be part of an overall tax reduction bill, and would have an effective date of January 1, 2019.

Law enforcement tax - A 0.4 percent general sales tax dedicated to law enforcement could eliminate Missouri State Highway Patrol costs from transportation revenues, which would generate approximately \$3.2 billion over 10 years for state transportation investments. The total amount available in today's dollars would be \$2.7 billion. This proposal would require voter approval and would have an effective date of July 1, 2019. While this proposal provides transportation funds for the state, it does not provide funds for cities and counties.

Mr. Wunderlich remained hopeful that something positive would happen with regard to transportation funding, but was unable to guarantee successful passage of a funding proposal. Mr. Reeser reminded everyone of the need for additional funding for transportation in Missouri. He reviewed the \$825 million of unfunded transportation needs that could address anything from improving road and bridge conditions to stabilizing maintenance and operation funding, to investing in projects that increase safety or promote economic growth, improve the interstates, or improve multimodal

transportation options. Mr. Reeser also explained that the total funding generated by each proposal was adjusted to account for inflation and then flowed through to cities and counties for their share, then the highway patrol operations for their share before it comes to MoDOT for maintenance and operations then lastly to the district funding distribution. The district funding distribution is the step where the planning process is used to determine the projects that will be included in the Statewide Transportation Improvement Plan. In an effort to manage expectations, Director McKenna reported the 10 cent gas tax increase that was recommended by the 21st Century Missouri Transportation System Task Force is solely an inflation catch-up to the last time the gas tax was raised in 1996. While any of these proposals will help considerably they will not produce a windfall of transportation funds for the state.

Commissioner Waters commented the state really needs a combination of two or three of these proposals to get enough funding to address Missouri's transportation needs. Commissioner Pace expressed concern regarding the department's deficit spending currently and that in the near future there will not be enough in reserves to continue that trend.

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APPRECIATION TO MAYOR CARRIE TERGIN FOR DEDICATION TO BUCKLE UP PHONE DOWN

Patrick McKenna, Director, reminded the Commission in 2017, MoDOT launched the Buckle Up Phone Down challenge in an attempt to drive down the record number of fatalities on state roadways. Since then, several hundred Missouri businesses have pledged to promote the Buckle Up Phone Down challenge with their employees, and thousands of individuals have also made the pledge to promote their own safety and that of others. He reported that Mayor Tergin has been one of the earliest and most ardent supporters of Buckle Up Phone Down (BUPD) and has worked hard to spread the message and engage numerous participants from Missouri.

Since becoming Mayor of Jefferson City in April 2015, Carrie Tergin has been a visible and vocal supporter of MoDOT's safety initiatives. She is always ready to help promote department safety efforts both publically and behind the scenes. Known as the "Selfie Mayor," Mayor Tergin has used social media to promote MoDOT's safety efforts from Buckle Up Phone Down to Work Zone Safety. Mayor Tergin has willingly participated in two news conferences to promote our Buckle Up Phone Down campaign. She declared October 20, 2017, as Buckle Up Phone Down Day in Jefferson City and appeared at a news conference with BUPD partner Central Bank. As part of the activities, she stood on the corner of High and Madison streets in Jefferson City and posed for selfies with passersby's while doing the BUPD hand gesture.

Mayor Tergin led the effort to gather together members of the group *Mayors United for Progress* to hold a news conference on February 14, 2018, in which several mayors called upon the legislature to enact anti-texting legislation for drivers of all ages, as well as a primary safety belt law. As owner of Carrie's Hallmark in Jefferson City, Valentine's Day is one of the biggest sales days of the year for her shop. Despite this, she still found time to support the BUPD cause.

Mayor Tergin has encouraged the City of Jefferson to adopt its own regulations regarding safety belt and cell phone use. Though the city council has not taken any formal action to date, she continues to press these issues. Mayor Tergin has also been a good partner with MoDOT on issues other than safety, helping us to resolve constituent issues related to MoDOT and transportation in a fair and balanced manner.

Director McKenna noted that the state has been unable to move safety policy through the General Assembly to address a primary safety belt law, and a law to prohibit cell phone use while driving, but communities are adopting these measures. He stated that he remains hopeful the state will follow the lead of these communities to adopt safety measures that will save lives. Because of her

actions to advocate safety not only in Jefferson City but around the state, the department presented the mayor with a plaque of appreciation.

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MISSOURI DEPARTMENT OF TRANSPORTATION PROPOSED FISCAL YEAR 2019 BUDGET

On behalf of the Director, Brenda Morris, Financial Services Director, presented the Fiscal Year 2019 budget in the amount of \$2,266,066,000. This proposed budget is \$99.3 million, more than fiscal year 2018. The major reason for the increase is because contractor payments are increasing.

Ms. Morris explained there are three important financial documents that are the blueprint for MoDOT’s spending: financial forecast, Statewide Transportation Improvement Program (STIP), and operating budget. While each of these three documents serves different purposes, they are related. The financial forecast estimates future revenues and disbursements and is the basis for the operating budget as well as the funding targets for planning partners and MoDOT to use when selecting projects for the STIP.

She then reviewed estimated total receipts for fiscal year 2019 at \$2,436,436,000. Total receipts are projected to increase \$61.8 million, compared to the fiscal year 2018 amended budget. The increase in state receipts of \$2.4 million is due to the projected increases in motor fuel taxes, motor vehicle sales taxes and motor vehicle and driver’s license fees. Federal reimbursement is expected to increase \$59.5 million. The Fixing America’s Surface Transportation (FAST) Act is estimated to provide 2.9 percent more in federal funds to Missouri. The last revenue source is a very small amount of General Revenue, \$18 million for the multimodal program.

Through legislative appropriations two other state agencies will receive \$303,365,000; these funds come from State Road Fund revenue sources and reduce the revenues available to the department. The Department of Revenue receives three percent of the cost of collection of the road fund revenues, and the Missouri State Highway Patrol receives road funds for the enforcement of motor vehicle laws.

In addition, MoDOT will pay for the cost associated with the state's bicentennial license plate reissuance in accordance with state law. The amount included for fiscal year 2019 is \$9,000,000. The Department of Revenue will impose and collect an additional license plate fee to reimburse the State Road Fund for these costs. These reductions leave a total of \$2.1 billion in receipts available for MoDOT in fiscal year 2019.

The disbursement request for fiscal year 2019 is \$2,266,066,000. From 2000-2010 MoDOT sold bonds that provided additional resources for highway improvements. Three kinds of bonds were issued. Senior bonds that were authorized by the General Assembly in 2000, Amendment 3 bonds that were authorized by Missouri voters in 2004, and the federal grant anticipation revenue vehicle bonds or GARVEE bonds. In fiscal year 2019 the amount of debt repayment is budgeted at \$289,463,000.

The amount budgeted for roads and bridges is \$1,835,183,000. Administration is a small part of the budgeted disbursements at \$56,822,000. The system management category for building roads and bridges is \$508,796,000 million in disbursements for maintenance activities that includes incident management, snow and ice removal, mowing, striping and maintenance of pavement and bridges. The motor carrier services and highway safety categories are included with the system management disbursements to ensure efficient movement of goods, enforcement of safety regulations in the motor carrier industry, and promote good behaviors to ensure safe travel on the transportation system. The largest portion of the roads and bridges disbursement is attributed to program delivery at \$1,188,132,000. Program delivery includes contractor payments to build roads and bridges, consultant payments to design roads and bridges, payments to purchase right-of-way, federal funds that pass through to local entities, as well as the expenses for MoDOT employees engaged in construction activities. A very small, yet critical investment is \$81,433,000 for fleet, facilities, and information systems category to help ensure we have the right fleet that we need to accomplish our maintenance

operations and the information technology to support the work we do and to assist the public with having the best information possible to travel safely.

The multimodal category is another small portion of the operating budget, at \$141,420,000, and supports the other modes of transportation including aviation, waterways, transit, rail and freight. The biggest funding source for multimodal comes from federal funds. The small amount of general revenue is completely dedicated to other modes. The most significant change in amounts budgeted for multimodal is in the amount budgeted for rail. This is primarily due to an increase for Federal Railroad Administration grants awarded to MoDOT to be used at the terminal railroad facilities for positive train control (PTC) implementation. PTC is federally mandated by the Rail Safety Improvement Act of 2008, and is to be implemented in Missouri by December 31, 2018.

Ms. Morris explained program delivery, or the construction program, is the capital investment in roads and bridges. Contractor payments at \$815,749,000 increased by \$84 million more than the fiscal year 2018 amended budget. Contractor Payments are increasing as contractor awards have increased from \$700 million in fiscal year 2017 to \$850 million in fiscal year 2018 to \$900 million in fiscal year 2019. She explained contractor awards are very rarely paid out in the same year, as they typically pay out over several years. Contractor payments represent the cash out the door for the contractor awards that were in the previous years, as well as the current year.

She reminded the Commission that these amounts do not reflect the action taken by the legislature during this session. The department requested a pay increase for its employees and is waiting for final action from the General Assembly. The numbers for this budget do not include pay increases. At the beginning of the appropriations process the department requested two years of the pay strategy that was approved by the Commission and would equal to about a four percent increase for all MoDOT employees starting July 1. However she noted the Governor, House, and Senate have all made different recommendations that will be determined in the budget conference committee. She noted the changes

will be incorporated in the final budget for fiscal year 2019 that will be presented for the Commission's consideration at the June Commission meeting.

The Commission thanked Ms. Morris for her presentation.

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**REPORT AND RECOMMENDATION REGARDING EXECUTIVE ORDER 17-03
ADMINISTRATIVE RULE REVIEW – FINAL REPORT**

On behalf of the Director, Kathy Harvey, Assistant Chief Engineer, presented to the Commission for its approval the Executive Order 17-03 Rule Review Report. On January 10, 2017, Governor Eric Greitens issued Executive Order 17-03 that requires all state agencies to review all of its rules in the Code of State Regulations and to provide a report to the Governor by May 31, 2018. The executive order stated Missouri government has codified an excessive amount of administrative rules and Missouri citizens and businesses deserve efficient, effective and necessary rules but that such rules should not reduce jobs, limit innovation, or impose costs far in excess of the rule's benefits. It says rules that are ineffective, unnecessary or unduly burdensome must be repealed to attract businesses to Missouri and encourage job growth. The executive order prohibits the Commission from putting proposed new rules, or amended current rules, for notice and comment until approved by the Governor's Office. The executive order requires the Commission to review all of its rules and provides a list of items the department must consider during this review process.

As a result of this rule review process, out of the original 214 Commission administrative rules, the Commission has: amended 118 rules, rescinded 39 rules, rescinded and then readopted 8 rules, and made no changes to 49 rules. The Commission promulgated only one new rule relating to the Disadvantaged Business Enterprise Program, Title 7, Code of State Regulations, 10-8.005-Scope of Rules.

As part of the rule review process, each state agency was required to: (1) accept written public

comments for at least a sixty-day period; (2) hold at least two public hearings to allow citizens and businesses to identify regulations that are ineffective, unnecessary, or unduly burdensome; and (3) solicit and incorporate comments and advice from private citizens, stakeholders, regulated entities, and other interested parties. The Department conducted its sixty-day virtual meeting from April 6, 2017 through June 5, 2017. The public submitted 78 comments on Commission rules and there were also 10 public comments of a general nature.

Prior to submitting Commission rules to the required statutory rulemaking process (and review by the Governor’s Office), Division staff also conducted extensive outreach with a total of 720 interested stakeholders, regulated entities and other interested parties in regard to the Commission rules at issue in this rule review process.

In following the required statutory rulemaking process for this review, the Commission’s rules were also submitted for a thirty-day public comment period. The Commission Secretary’s Office received 125 comments on Commission rulemaking during the statutory thirty-day public comment period. Some Commission rules are in the middle of, or have yet to begin, the statutory thirty-day public comment period, which may result in additional public comments received.

Executive Order 17-03 requires the Commission and Department submit a report to the Office of the Governor no later than May 31, 2018. The report outlines the results of the rule review conducted by the Commission and Department as required by Executive Order 17-03. After consideration, the Commission, via approval of the consent agenda, unanimously approved the department’s report and authorized the Chief Counsel’s Office to file the Department’s Executive Order 17-03 Rule Review Report with the Office of the Governor and to publish the report on the department website.

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MEDICAL AND LIFE INSURANCE PLAN: APPROVAL OF PLAN ADMINISTRATOR RECOMMENDATION

On behalf of the Director, Jeff Padgett, Director of Risk and Benefits Management, shared the recommendation of the Medical and Life Insurance Plan Board of Trustees to approve a contract with Anthem Blue Cross Blue Shield for administrative services for a period of two years, with two one-year extension periods available, to provide administrative services beginning January 1, 2019.

Via approval of the consent agenda, the Commission unanimously approved the recommendation from Jeff Padgett and the Medical and Life Insurance Plan Board of Trustees and authorized the Director, Chief Engineer, or Chief Financial Officer to execute said contract, pending Chief Counsel’s approval as to form of the contract.

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REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING – DISADVANTAGED BUSINESS ENTERPRISES

On behalf of the Director, Lester Woods, External Civil Rights Director, presented the final orders of rulemaking for 7 CSR 10-8.011 through 10-8.161, Disadvantaged Business Enterprise (DBE) Program. The department reviewed and recommended changes to the rules to comply with the requirements of Executive Order 17-03. At the November 1, 2017 meeting, the Commission authorized the filing and publication of notice of proposed rescinded and proposed new administrative rulemaking 7 CSR 10-8.011 through 10-8.161, Disadvantaged Business Enterprise Program. After Commission approval, staff filed these rules with the Joint Committee on Administrative Rules and the Office of Secretary of State, who published the amended rules in the *Missouri Register* for public comment. The public had from February 15, 2018 to March 17, 2018, to submit comments in support of or in opposition to the notice of amended rulemaking. A total of eight entities submitted public comments; a limited number of changes were made as a result of the comments received.

The following is a summary of the significant changes to the rule. These rules are being amended to eliminate duplication with current federal rules, as well as remove outdated procedures; incorporate by reference the DBE program rules from the Code of Federal Regulations (CFR) into the Code of State Regulations (CSR); describe updated policies and procedures applicable to the Missouri Unified Certification Program; and harmonize the CSR and CFRs on DBE Program goal setting and contract goals.

The department supports this final order of rulemaking for Disadvantaged Business Enterprise Program. Upon motion by Commissioner Briscoe, seconded by Commissioner Waters, the Commission unanimously approved the final orders of rulemaking and authorized the Secretary to the Commission to file the final orders of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

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REPORT AND RECOMMENDATION REGARDING NOTICE OF PROPOSED AMENDED RULEMAKING – PROCUREMENT OF SUPPLIES

On behalf of the Director, Debbie Rickard, General Services Director, presented the notice of proposed amended administrative rulemaking for 7 CSR 10-11.010 through 7 CSR 10-11.030, Procurement of Supplies. The proposed amendments to the rules clarify terms in the rules to properly identify procurement terminology; add additional methods of procurement, including indefinite delivery contracts and request for information; and eliminate restrictions where not required. Under Executive Order 17-03, the Commission is required to review each of its rules in the Code of State Regulations, as a result of this review these rule changes are proposed for consideration.

The public will have an opportunity to submit comments in support of or in opposition to the proposed amended rulemaking. All comments received from the public will be considered and summarized in the order of rulemaking.

After consideration, the Commission, via approval of the consent agenda, unanimously found substantial evidence that the proposed amended rulemaking is necessary to carry out the purposes of sections 226.020, 226.130, 227.030 and 227.210, RSMo, that grants the Commission’s rule authority, authorized the Secretary to the Commission to file the notice of proposed amended rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State for publication in the Missouri Register, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to initiate the rulemaking process.

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CONSIDERATION OF BIDS FOR TRANSPORTATION IMPROVEMENTS

On behalf of the Director, Eric Schroeter, State Design Engineer, presented the following recommendations pertaining to bids received on federal-aid and state highway and bridge projects during the past month. He noted Calls F02, F04, and H06 have local funding, as noted in Table I below, and the department received all of the necessary concurrences.

Mr. Schroeter recommended (1) award of contracts to the lowest responsive bidders for bids received at the April 20, 2018, letting, as recommended and noted in Table I below.

**Table I
Award of Contracts
April 20, 2018, Bid Opening**

Call No.	Route	County	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
A01	139	Putnam, Sullivan	J1L1800B	\$2,158,003.42	\$0.00	Norris Asphalt Paving Co., LC	Resurface
B01	C, 24	Ralls, Randolph	J2P3169	\$307,837.40	\$0.00	Lehman Construction, LLC	Bridge rehabilitation

B02	DD	Randolph	J2S3044	\$548,890.50	\$0.00	Lehman Construction, LLC	Bridge deck replacement
	EE		J2S3048				
B03	F, Wildcat Drive	Warren	J2S3170	\$385,855.70	\$0.00	Lehman Construction, LLC	Bridge rehabilitation
C01	Various	Various	J4I3173	\$761,850.00	\$0.00	Capital Electric Line Builders, Inc.	Job Order Contract for lighting repair
C02	Various	Various	J4S3209	\$111,459.00	\$0.00	Signs Up LTD	Sign installation
D01	I-44	Crawford, Laclede, Phelps, Pulaski	J0I3004R	\$186,225.00	\$0.00	N.B. West Contracting Company	Job order contract for concrete pavement repair
D04	I-44 Outer Rd	Laclede	J5S3162	\$4,493,338.63	\$0.00	Emery Sapp & Sons, Inc.	Grading, drainage, paving and bridge
D07	Various	Cooper, Moniteau	J5S3219	\$615,379.05	\$0.00	Concrete Solution LLC	ADA improvements
D09	Bus 50	Cole	J5M0280	\$424,616.45	\$0.00	Don Schnieders Excavating Company, Inc.	Pavement Improvements
F01	I-270, MO 370	St. Louis	J6I3248	\$519,000.00	\$0.00	KCI Construction Company	Bridge rehabilitation
F02*	364	St. Charles	J6P3211	\$1,222,879.45	\$0.00	Millstone Weber, LLC	Pavement Improvements
F03	I-44 Outer Rd	St. Louis	J6S3208	\$424,444.00	\$0.00	Above And Below Contracting, LLC	Levee Reconstruction
F04**	100	St. Louis	J6S3236	\$578,718.00	\$10,000.00	Gerstner Electric, Inc.	Signal, Lighting and ADA Improvements
	Berry Road		J6S3239		\$1,000.00	Gerstner Electric, Inc.	Signal Improvements
F05	94	St. Charles	J6S3262	\$644,335.96	\$0.00	N.B. West Contracting Company	Seal Coat
G01	Various	Various	J7M0262	\$44,297.50	\$0.00	Ewing Signal Construction, LLC	Job Order Contract for signal and lighting work
G02	Various	Various	J7M0263	\$96,362.50	\$0.00	Ewing Signal Construction, LLC	Job Order Contract for signal and lighting work
G03	V	Bates	J7S3145	\$2,476,735.84	\$0.00	Phillips Hardy, Inc.	Bridge replacement
	V		J7S3200				Bridge deck replacement

G05	B	Greene	J8I3098	\$379,119.05	\$0.00	APAC-Central, Inc.	Grading and pavement improvements
G06	I-44	Greene	J8I3109	\$746,603.00	\$0.00	Phillips Hardy, Inc.	Bridge rehabilitation
G07	Various	Various	J8M0259	\$132,757.50	\$0.00	Ewing Signal Construction, LLC	Job Order Contract for signal and lighting work
G08	60, 65	Greene	J8P3132	\$189,305.05	\$0.00	James H. Drew Corporation	Guardrail improvements
H01	I-55	Scott	J9I3307	\$1,569,591.85	\$0.00	Joe's Bridge & Grading, Inc.	Bridge deck replacement
H02	I-55, I-57	Ste. Genevieve	J0I3004S	\$125,000.00	\$0.00	Fronabarger Concreters, Inc.	Job order contract for concrete repair
H03	I-55, I-57	Ste. Genevieve	J0I3004T	\$188,418.75	\$0.00	Apex Paving Co.	Job order contract for asphalt repair
H04	I-55	Scott	J0I3004U	\$125,000.00	\$0.00	Fronabarger Concreters, Inc.	Job order contract for concrete repair
H05	I-55	Scott	J0I3004V	\$191,106.25	\$0.00	Apex Paving Co.	Job order contract for asphalt repair
H06***	51	Perry	J9P3104	\$1,163,269.00	\$0.00	St. Louis Bridge Construction Company	Bridge rehabilitation
H07	21	Iron	J9P3128	\$777,480.70	\$0.00	Lehman Construction, LLC	Bridge replacement
H08	61	Cape Girardeau	J9P3187	\$6,787,760.52	\$0.00	Chester Bross Construction Company/C.B. Equipment, Inc.	Resurface
	K		J9S3297				
H09	67	Madison	J9P3246	\$396,294.90	\$0.00	Lehman Construction, LLC	Slope repair
			TOTAL:	\$28,771,934.97	\$11,000.00		

* Call F02 – Funding by City of St. Charles – \$486,545.00

Funding by City of St. Peters – \$121,636.00

** Call F04 – Funding by City of Kirkwood – \$16,473.00

*** Call H06 – Funding by Illinois Department of Transportation - \$581,634.50

Commission Consideration and Action

After consideration, and upon motion by Commissioner Waters, seconded by Commissioner Briscoe, the Commission took the following action:

1. Awarded contracts to the lowest responsive bidders for bids received on the April 20, 2018, bid opening, as recommended and noted in Table I above. Non-contractual costs for these projects are shown on the above tabulation.
2. Authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute the contracts awarded above.

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2019-2023 DRAFT STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM

On behalf of the Director, Machelles Watkins, Transportation Planning Director, presented an update on the 2019-2023 Draft Statewide Transportation Improvement Program (STIP) which is developed in unison with the budget and financial forecast. Ms. Watkins explained the STIP is MoDOT’s proposed list of transportation projects for the next five years, this document describes how transportation dollars are being invested, and represents MoDOT’s commitment to Missourians.

Typically, the Draft STIP is presented in May for the Commission’s review and to start the public comment period. However, as the department prepared the Draft STIP they discovered that more work needed to take place to align the Draft STIP with the department’s asset management plan. As a result, the department will return to the Commission with the Draft STIP at the June Commission meeting.

Missouri’s transportation system is comprised of 34,000 miles of roadway and over 10,400 bridges. Ms. Watkins described the transportation assets, how they are categorized, and the current condition of the system.

Category	Miles	Condition	Funding
Major roads	5,500	90 % good	STIP
High volume minor roads	17,000	80 % good	STIP
Low volume minor roads	11,000	70 % good	Operating Budget*

**Bridges on low volume minor roads are funded through the STIP*

Ms. Watkins then reviewed what is new in this draft of the STIP. This STIP will include the increases to the cost share program. The Commission took action on January 4, 2018, to increase cost share funding to \$30 million for 2021, \$35 million for 2022, \$40 million for 2023, \$45 million for 2024, and annually thereafter. The Commission also took action on January 4, 2018, to update the distribution method for the district-distributed safety funds. This STIP will reflect beginning in 2021, the current \$32 million of district-distributed safety funds will be distributed based on a three-year average of the number of fatalities and serious injuries on the state highway system. Another updated item includes the expanded maintenance operations section which now contains a two-year work plan; last year it was a one-year work plan.

Ms. Watkins then reviewed how the funds in the STIP are allocated. She explained the largest portion is allocated to highways and bridges at \$900 million, however, funding at that level requires deficit spending of about \$80 million annually which is not sustainable. She also noted the Operations and Maintenance plan funding of \$513 million includes motor carriers and fleet, facilities, and information systems. Local programs are funded at \$172 million and those are federal pass-through funds for cities and counties. The smallest portion, \$94 million, is allocated to multimodal programs that include transit, aviation, rail, waterways, freight and the State Transportation Assistance Revolving (STAR) loan fund.

Ms. Watkins explained the STIP is developed in coordination with planning partners that includes metropolitan planning organization, regional planning commissions, local elected officials and regional leaders who together with MoDOT review transportation needs and prioritize projects with the funding that is available. The department will return with a Draft STIP in June which will then start the thirty-day public comment period. The department will collect any comments received, summarize them and share them with the Commission and seek approval of the final STIP at the July Commission meeting.

Director McKenna noted that including a two-year maintenance work plan is not required, but demonstrates the department going above and beyond in an effort to explain how these funds are used to maintain the low volume minor routes.

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REQUEST FOR APPROVAL OF LOCATION AND DESIGN OF HIGHWAYS

Route 364, St. Charles County Job No. J6P3350 Public Hearing Held March 8, 2018

The proposed improvement provides for a new interchange on Route 364 at Gutermuth Road and includes installation of on and off ramps and acceleration and deceleration lanes on Route 364. Roundabouts will be installed at the ramp termini on Gutermuth Road. Work includes grading, paving, drainage, lighting, signing, retaining walls, sound walls, and bridge widening. The project will have fully controlled access right of way on Route 364 and normal control access right of way on Gutermuth Road. Lane and bridge widening work on Route 364 will be performed under traffic with short-term daytime lane closures during off-peak hours. The roundabouts on Gutermuth Road will be built with staged construction to keep the road open during construction. The project is 0.74 mile in length on Route 364, and 0.34 mile in length on Gutermuth Road.

On behalf of the Director, Tom Blair, St. Louis District Engineer, recommended approval of the location and design as presented at the public hearing.

After full consideration of the favorable and adverse economic, social and environment effects of the recommended location and design, the Commission via approval of the consent agenda unanimously found and determined the recommended location and design would best serve the interest of the public and approved the recommendation.

Route 180, St. Louis County Job No. J6S3049 Public Hearing Held February 1, 2018 Virtual Public Hearing Held February 2 -10, 2018

The proposed improvement provides resurfacing Route 180 and upgrading the existing sidewalk along the corridor to meet the Americans with Disabilities Act requirements. Implement a lane reduction (four lanes to three lanes) along Route 180 between Normandy Avenue and the St. Louis City limits to increase safety for all modes of travel. The roadway will consist of eleven

foot lanes and five foot shoulders. The project will have normal access right of way. The roadway will remain open to traffic during construction. The project is 3.7 miles in length.

On behalf of the Director, Tom Blair, St. Louis District Engineer, recommended approval of the location and design as presented at the public hearing.

After full consideration of the favorable and adverse economic, social and environment effects of the recommended location and design, the Commission via approval of the consent agenda unanimously found and determined the recommended location and design would best serve the interest of the public and approved the recommendation.

**Route I-44, Webster County
Job No. J8I0445
Public and On-line Hearing Held April 3, 2018**

The proposed improvement provides a new interchange on Interstate 44 at mile marker 103 and the realignment of Route CC from approximately Rifle Range County Road west to Interstate 44. The new lane widths on Route CC will be twelve feet. The new ramps will be variable width and a minimum of twelve feet. Curb and gutter sections will be constructed on Route CC in and around the interchange. A multi-use path will be constructed along Route CC from the west side of Interstate 44, east to Elm Street and on Elm Street. Elm Street is a City Street that is being designed with the project and will be placed as an add alternate bid in the contract. This project will have fully controlled access right of way. Construction will be completed under traffic and will require night time lane shifts and closures on Interstate 44. Outer roads and county roads will be closed and detours placed. Much of the new Route CC will be constructed away from traffic as this is designed on a new alignment. The project is 3.59 miles in length.

On behalf of the Director, Travis Koestner, Southwest District Engineer, recommended approval of the location and design as presented at the public hearing.

After full consideration of the favorable and adverse economic, social and environment effects of the recommended location and design, the Commission via approval of the consent agenda unanimously found and determined the recommended location and design would best serve the interest of the public and approved the recommendation.

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APPROVAL OF PLANS FOR CONDEMNATION

On behalf of the Director, Eric Schroeter, State Design Engineer, recommended the Commission approve the following detailed project plans, approved by the Chief Engineer, for filing as necessary for the condemnation of right of way.

County	Route	Job Number
Christian	14	J8P3088C
Christian	Business 65	J8P3101

In accordance with Section 227.050 RSMo, the Commission via approval of the consent agenda, approved the detailed project plans for the above noted projects and directed they be filed as necessary for the condemnation of right of way.

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-- REPORTS --

The Commission received the following written reports.

CONTRACTOR PERFORMANCE REPORT

On behalf of the Director, David Ahlvers, State Construction and Materials Engineer, presented the annual contractor performance report for 2017. Project performance evaluations were completed by the resident engineers and provided to the contractors for review and comment. Performance summaries will be mailed to the contractors the week of May 7, 2018. Pursuant to 7 CSR 10-10.070, Procedure for Annual Rating of Contractors, no contractors are being placed on probation as a result of the 2017 performance ratings. Contractors receiving the top ratings for the 2017 construction season will be recognized at the MoDOT/AGC Coop meeting in the fall of 2018.

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FINANCIAL ACCOUNTABILITY REPORT – QUARTERLY REPORT

Brenda Morris, Financial Services Director, provided to the Commission the written Quarterly Financial Accountability Report for the period ending March 31, 2018.

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REPORT REGARDING EXECUTIVE ORDER 17-03 ADMINISTRATIVE RULE REVIEW PROCESS UPDATE

Kathy Harvey, Assistant Chief Engineer, submitted a report that provides a status update on administrative rules. By enacting Section 536.175 RSMo, the general assembly required state agencies to periodically review their administrative rules and repeal those rules that are obsolete or unnecessary and amend those rules to reduce regulatory burdens on individuals, businesses, or political subdivisions or eliminate unnecessary paperwork. MoDOT started its periodic administrative rule review process as required by law on July 1, 2016, and had prepared amendments and rescissions deemed necessary in order to complete the report to the Secretary of State that was submitted on June 30, 2017.

On January 10, 2017, Governor Eric Greitens issued Executive Order 17-03 that requires all state agencies to review all of its rules in the Code of State Regulations and to provide a report to the Governor by May 31, 2018. The executive order stated Missouri government has codified an excessive amount of administrative rules and Missouri citizens and businesses deserve efficient, effective and necessary rules but that such rules should not reduce jobs, limit innovation, or impose costs far in excess of the rule's benefits. It says rules that are ineffective, unnecessary or unduly burdensome must be repealed to attract businesses to Missouri and encourage job growth. The executive order prohibits the Commission from putting proposed new rules, or amended current rules, for notice and comment until approved by the Governor's Office. The executive order requires the Commission to review all of its rules and provides a list of items the department must consider during this review process.

As a result of the Governor's executive order all rulemaking was temporarily suspended until February 28, 2017. The rule review process under the Governor's executive order is separate from and in addition to the Section 536.175 RSMo periodic rule review process and report. Consequently, the continual review of administrative rules led to the Commission's desire for a better understanding of where each rule is at in the review and rulemaking process. This report was prepared in response to the Commission's request and provides a summary of the status of administrative rules currently under review and in the rulemaking process.

As of May 2, 2018 no rules remain in the impetus approval status. No rules are waiting for the Governor's office review and approval. One rule received Commission approval for filing: Procurement of Supplies. One rule was filed with the Secretary of State and Joint Committee on Administrative Rules: Financial Assistance (STAR Fund). Three sets of rules are in the public comment period: Ignition Interlock, Railroad, and Traffic Regulation. Three sets of rules recently completed the public comment period: Plant Collection, Rest Areas, and Transportation Corporations. Additionally, one set of rules were approved for filing final orders of rulemaking: Disadvantaged Business Enterprise.

Final Orders were filed with the Joint Committee on Administrative Rules for one set of rules: Design Build. Final Orders for two sets of rules were filed with the Secretary of State: Uniform Relocation Assistance and Utility Private Line Location and Relocation. Seven sets of rules were published in the Code of State Regulations Publication: Contractor Disqualification, David's Law, Organizational, Rail Fixed Guideway, Scenic Byways, Supplemental Guide Signs, and Transportation (Transit). Two sets of rules became effective: Junkyard and Outdoor Advertising.

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**FINANCIAL – BUDGET – REPORTS
YEAR-TO-DATE FINANCIAL REPORT, PERIOD ENDING MARCH 31, 2018**

Brenda Morris, Financial Services Director, submitted a written financial report for fiscal year to date March 31, 2018, with budget and prior year comparisons.

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CONSULTANT SERVICES CONTRACT REPORT

Eric Schroeter, State Design Engineer, submitted a written report of consultant contracts executed in the month of March 2018, for both engineering and non-engineering related projects. The department utilizes consultants to efficiently manage workload and provide specialized expertise to supplement and support department staff. Expenditures for consultant services are funded from the Commission approved Statewide Transportation Improvement Program and MoDOT Operating Budget. There were 340 active contracts held by individual engineering consultant firms prior to March 31, 2018. Eleven engineering consultant services contracts were executed in March 2018, for a total of \$3,410,109. There were two non-engineering consultant contracts executed in March 2018, for a total cost of \$13,495.

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By unanimous consensus of all members present, the meeting of the Commission adjourned.

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The Mission of the Missouri Highways and Transportation Commission is to:

- Represent the citizens of Missouri pursuant to the Constitution by providing independent and nonpartisan governance of the Missouri Department of Transportation; and
- Establish policies, exercise oversight, and ensure accountability in developing and maintaining a world class transportation system in Missouri which fosters safety and economic development.

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