



**MISSOURI HIGHWAYS AND TRANSPORTATION
COMMISSION**

Official Minutes

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**MINUTES OF THE REGULARLY SCHEDULED HIGHWAYS AND
TRANSPORTATION COMMISSION MEETING HELD IN CLINTON, MISSOURI,
WEDNESDAY, OCTOBER 3, 2018**

A regularly scheduled meeting of the Missouri Highways and Transportation Commission was held on Wednesday, October 3, 2018, at the Elks Lodge #1034, 115 W. Franklin Street, Clinton, Missouri. Gregg C. Smith, Chairman, called the meeting to order at 10:00 a.m. The following Commissioners were present: Michael B. Pace, Michael T. Waters, Jr., John W. Briscoe, Terry L. Ecker, and Robert G. Brinkmann, P.E.

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, October 3, 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, October 2, 2018 at 2:00 p.m. and adjourned at 4:00 p.m.

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-- OPEN MEETING --

APPROVAL OF MINUTES

Upon motion by Commissioner Briscoe, seconded by Commissioner Waters, the Commission unanimously approved the minutes of the regular meeting held July 11, 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 October 3, 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 October 3, 2018, meeting.

Audit Committee – Commissioner Waters stated there was no report.

Legislative Committee – Commissioner Pace stated while there is no report due to the legislature not being in session, the Commission is looking forward to the upcoming election in November for the results on Proposition D. This measure was put forth by the legislature as a result of the work that began with the 21st Century Transportation Task Force. While the additional funding would address many transportation needs across Missouri, it is up to the Missouri voters to determine the outcome of this measure.

Missouri Transportation Finance Corporation (MTFC) – Commissioner Smith reported the Board met on October 3, 2018 and the auditors, Williams Keepers, presented the Comprehensive Annual Financial Report for fiscal year ending June 30, 2018. The MTFC Board received an unmodified opinion with no audit findings. This is the twenty-second consecutive unmodified opinion. Commissioner Smith commended the Financial Services staff for their work that resulted in this good report. Commissioner Smith also reported on two loan requests. The Board approved a loan totaling \$1,100,000 to the City of Ashland for construction of a roundabout at Route M and Henry Clay Boulevard. The Board also approved a loan request totaling \$280,500 for intersection improvements at Route 7 and Commercial Street. The next Board meeting is scheduled for February 2019.

MoDOT and Patrol Employees' Retirement System – Commissioner Briscoe reported the MPERS Board met on September 27 and reviewed the annual actuarial evaluation which is designed to measure the overall financial condition of the retirement system. During fiscal year 2018, MPERS funded status remained steady at 57.1 percent. The funded status has continued to increase steadily from its lowest point six years ago when it was at 42.2 percent. The annual evaluation also provides the basis for determining employer contribution rates for the next fiscal year. The contribution rate as approved by the Board for fiscal year 2020 will remain at 58 percent of the payroll. As of June 30, 2018 MPERS fund value was \$2.32 billion. MPERS fiscal year 2018 return was 9.43 percent. The portfolio generated

a 1.8 percent return for the first quarter of the new fiscal year. The investment committee also met and had a discussion regarding portfolio management and investment fees. The next MPERS board meeting will be November 29, 2018.

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DIRECTOR'S REPORT

During the October 3, 2018, Commission meeting, Director Patrick McKenna provided the following report:

Motor Carrier Services Director – Director McKenna introduced the new Director of the Motor Carrier Services Division Jim True. Mr. True started about one month prior and comes to MoDOT from Michigan with many years of experience in the transportation industry in various roles in safety, risk management, driver recruitment/retention and training. He has a strong working knowledge of Federal Motor Carrier Safety Administration and United States Department of Transportation rules and regulations, but also understands the business side of trucking, and will be a strong addition to the team.

Annual Day of Remembrance – The department held its annual Day of Remembrance on September 20, 2018. Remembrance ceremonies were held in every district and at Central Office to remember the sacrifice that was made by the 134 MoDOT employees since 1932 who lost their lives while performing their duties for the benefit of the citizens of Missouri. The Day of Remembrance reinforces MoDOT's dedication to do – every single day – whatever it takes to help customers and our co-workers make it home safely. MoDOT is committed to do everything we can to never add another name to the Fallen Workers memorial that is outside the Central Office building.

The fourteenth annual 1033 Benevolent Fund Golf Tournament was held September 17, 2018 in Columbia. Former Governor Roger Wilson does a great job hosting for a day that is very special to him – an opportunity to raise funds for the 1033 Benevolent Fund; Travis Koestner, MoDOT's Southwest District Engineer, does a great job coordinating things from the MoDOT side. The fund provides immediate benefits to families of public servants who are killed in the line of duty. MoDOT employees, retirees, our partners, suppliers and others turn out every year for this noble cause.

Safety Day – Later in October, MoDOT will observe its third "Stand Up for Safety" Day. All across the organization, employees will step away from their normal duties and focus on what needs to be done to ensure that everyone goes home safe every day. The Director recognized Commissioner Pace for being the inspiration behind this event.

Buckle Up Phone Down Award – MoDOT won a national award at AASHTO's Transportation Communications Conference for the Buckle Up Phone Down Campaign. This award was earned based on public outreach in crisis management and for work done entirely by MoDOT's staff.

Competitive Highway Bridge Program Grants (FARM Grants) - In the spring, Congress appropriated \$225 million to be awarded by the USDOT for Competitive Highway Bridge Program grants. Eligible applicants are states that have a population density of less than 100 individuals per square mile. Missouri is one of 25 states that qualify, and is preparing a grant application that is due in

early December. Funds from this program must be used for highway bridge replacement and rehabilitation projects on public roads that demonstrate cost savings by bundling multiple highway bridge projects into a single contract. The department has identified 41 bridges in the Northwest and Northeast Districts that are prime candidates for replacement. All of them are in poor condition; weight restricted, on timber pilings, and are one-lane, but serve two-way travel. On average, they are 77 years old. If MoDOT is successful, this could possibly be a design-build project, a smaller version of the Safe & Sound bridge improvement program that was successfully completed five years ago.

AASHTO Vice-Presidency – The Director explained AASHTO is a national organization made up of 52 member organizations; fifty states, the District of Columbia, and Puerto Rico. This organization sets standards so there is consistency across the nation with transportation investments and implementation. This organization also has a deep committee structure with tremendous representation by MoDOT on these committees; this effort is coordinated by Jay Wunderlich, Governmental Relations Director. Next year, MoDOT will be hosting the AASHTO Annual Meeting in St. Louis. The department hosted a booth in Atlanta to promote next year’s meeting, and Governor Parson was kind enough to tape a message to the membership, encouraging them to come to St. Louis.

Infrastructure and Workforce Development – Governor Parson has two priorities, infrastructure and workforce development because those are linked together in economic development and future prosperity. Both the Governor and Lieutenant Governor, Mike Kehoe, have been promoting transportation investment all over the state. This administration understands the issues of transportation and infrastructure and that is really exciting for the department.

Remaining Planning Partner meetings during October – The planning partner meetings that the department will be holding during the month of October are getting started with the first one in St. Louis on October 4. There are two the following week, one in Jefferson City and one in St. Joseph. These will be general discussions on the current condition of the state transportation system, how resources are expended to take care of transportation assets that would cost \$125 billion to replace, and then how additional funding resulting from Proposition D could best be used to consider regional priorities, if voters approve the measure in November.

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MISSOURI HIGHWAY 13 CORRIDOR COALITION

Bill Bernier, Chairman of the Missouri Highway 13 Corridor Coalition, explained the coalition is comprised of three representatives from each county. The counties include Caldwell, Henry, Johnson, Lafayette, and Ray. The coalition also works with four regional planning commissions: Green Hills Regional Planning Commission, Kaysinger Basin Regional Planning Commission, Mid-America Regional Council, and Pioneer Trails Regional Planning Commission. The coalition meetings are held

in communities along the corridor. The coalition's vision is to complete the corridor with four lanes from Interstate 44 north to Interstate 70 and further north to US 36.

When completed, the four lane Highway 13 corridor will enhance transportation in west central Missouri and enable US 36 to relieve some of the traffic burden on Interstate 70. It will also provide a practical link to Interstate 35 to the north. The entire corridor serves 12 counties with a combined population of more than 570,000. This corridor also connects people to 27 hospitals, and 13 colleges and universities. The University of Central Missouri is the only four year public institution without four lane access to an interstate. This four lane corridor will serve as a link to Whiteman Air Force Base, Missouri Veterans Home in Warrensburg, and the Veterans Administration Outpatient Services Center in Warrensburg. Additionally, this corridor will improve access and encourage tourism to the Ozarks from neighboring states as well as across Missouri.

Mr. Bernier reported there is a significant asset in place along this incomplete corridor already with the Ike Skelton Bridge over the Missouri River and nine miles of four lane highway above the flood plain that connect to the bridge. He encouraged the Commission to make better use of this asset by completing this four lane corridor. He also recognized that a four lane corridor will continue to encourage economic development such as the new Dollar Tree and Family Dollar Distribution Center located near the intersection of Highway 13 and US 50. This business will have 150 – 200 trucks accessing it daily and will employ 375 people.

The coalition recognizes that the entire corridor from Clinton to Hamilton cannot be accomplished in one project. The coalition's first priority is the section between Warrensburg and Interstate 70. The second priority is the section between Clinton and Warrensburg. Both of these sections have significant safety issues due to an increasing volume of traffic, limited sight distance, limited or no shoulder width, and significant use by young drivers that include college students and airmen. Mr. Bernier described some interim steps that can help in advance of the four lane corridor

project. These interim steps include projects that will add a turn lane at Missouri Route 13 and Route E north of Warrensburg and improvements to the Missouri 13 and Route 2 intersection.

Mr. Bernier reported the coalition passed a resolution expressing their support for Proposition D urging the citizens of Missouri to vote yes on November 6, 2018. He said this resolution was being shared with media outlets in all five counties and with safermo.com. Commissioner Briscoe thanked Mr. Bernier for his presentation and for his long standing commitment to the Route 13 corridor. He noted there may be some cost-share opportunities on the incremental projects that were identified to move the coalition to their ultimate goal.

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KAYSINGER BASIN REGIONAL PLANNING COMMISSION

Randy Pogue, City Administrator of Warsaw and Kaysinger Basin Regional Planning Commissioner, presented the issues relating to the amount of visitors that are traveling through the lakes area - Truman and Lake of the Ozarks as well as Stockton and Pomme de Terre, due to the higher volume of traffic as interest grows in the lakes in this region. In 2016 there were 1.5 million visitors to Truman Lake. This includes over 730,000 people visiting recreation areas within five miles of Warsaw. Combined, Truman Lake and the Lake of the Ozarks attract 6 million visitors annually.

In Warsaw and Benton County there has been growth in revenues as a result of this growth in tourism. From 2010 to 2017 tourism spending is up nineteen percent. The annual guest tax has had steady growth each year and from 2014-2017 reflects a twenty percent increase. The city of Warsaw had an increase of eleven percent in sales tax from 2013-2017. Combined, these statistics show an upward trend in Benton County and hopefully the adjoining counties are having similar growth in Hickory, Henry, Vernon, and Cedar counties.

Mr. Pogue described how these visitors gain access to the region. He explained that traffic travels from Kansas City and western Kansas along Route 7 from Harrisonville which is four lanes all

the way up to Clinton where it drops to two lanes and significant congestion occurs on weekends. The intersection of Route 7 and 13 in Clinton has 34,000 vehicles per day on average. Another path for the travelers is from Kansas City along US 50 or I-70 to Highway 65, all of these corridors are four lanes until you reach Warsaw where from there they take two-lane Highway 7 to get to the Lake of the Ozarks.

Improved transportation routes can improve business opportunities for small rural communities like Warsaw that are part of the Kaysinger Basin Regional Planning Commission and the rural counties that border these lakes like Benton, Hickory, Henry, Morgan, Camdenton and others. Mr. Pogue stressed the importance of the lettered routes in these areas as the letter routes provide access to these lakes. Lettered routes and their bridges need to be in good condition to help the local economy of the region. Mr. Pogue also requested the Commission consider completing the 40 mile segment of Route 65 from Buffalo and Warsaw from two lanes to four lanes. This will connect the region to the southern parts of the state on into Arkansas as well.

Commissioner Waters thanked Mr. Pogue for his work on the regional planning commissions and explained how important it is for the regional planning commissions to set the transportation priorities so that transportation investment meets the regions' needs. He also stated he has noticed the improvements in Warsaw as he traveled through town earlier this summer.

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CLINTON REGIONAL AIRPORT UPDATE

Wallace White, Airport Manager, updated the Commission on the Clinton Regional Airport and its benefit to the local community and economy. This presentation also outlined project needs at the airport. Mr. White expressed his appreciation for the partnership between the airport and MoDOT and the Federal Aviation Administration. He also explained the organization of the airport and how the city

of Clinton owns the airport, and the Clinton Airport Association is a non-profit organization that manages the airport for the city.

Mr. White reviewed a brief history of the airport that reported in 1965 the city acquired property and constructed a 3,000 foot sod landing strip. In 1967 the runway was paved, then later in 1983 the runway was widened and a parallel taxiway was constructed. In 2001 the community began to study the expansion of the airport and published a master plan in 2004. Later in 2008 construction of runway 18-36 began, and it is a 5,000 foot facility that is in excellent condition. The airport also has instrument approaches that are very safe.

Since 1965 there has been significant investment in the airport that benefits the public. The city has invested \$488,000, the state has invested \$572,000 and the federal government has invested \$7.6 million. The region and the airport benefitted from the ratio of local and state investment to federal funds. The airport also has a significant economic impact of \$1.9 million.

There are projects that are needed and include rehabilitation of the 4-22 runway. The city is seeking funding at the federal level and is working closely with MoDOT on a project to take care of the runway by filling the cracks, sealing the surface, and placing new markings. The airport recently constructed an apron in front so there is room for corporate aircraft. However, it is currently seeking federal funding for a project to expand the apron. The master plan calls for a parallel taxiway to runway 18-36, and the community is hopeful that federal funding will be available for that in the next five to ten years.

Commissioner Ecker thanked Mr. White for his presentation noting the economic benefit of \$1.9 million is a great indicator of how important small community airports are for economic development. He stated it is also refreshing to have a presentation about aviation.

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PUBLIC COMMENT – CONCERN ABOUT BRIDGES

Ron Bybee stated he read on MoDOT’s website there are 922 bridges that are rated poor and 1,194 bridges that are restricted. He understands this has been a problem for several years. As an observer of the department and the work they have done over the decades, as well as the condition of the roads and bridges; he suggested the department put more effort into repairing the poor condition and restricted bridges and the highways that lead up to those bridges. Most of these are located on the secondary and lettered routes. Mr. Bybee stated that work needed to be done before there was construction of new roads. He understands that a lot of people are asking for new construction, but if the department does that it will take away from the repairs that need to take place. As a retired cattleman he explained that he knows one must spend its money where to get the best benefit out of it, but he also recognizes that at some point in time those bridges and roads in rural Missouri can fail and need repair. Mr. Bybee also referred to the upcoming election in November for Proposition D and noted the lack of support for this proposal that he is hearing from local people. He advised the Commission and the department that they will need to do a really good job of selling the tax increase in order to get people to vote for it. Director McKenna commented that he could concur with the sentiment that was expressed; while there is a lot of work to do the department is doing the best it can with the limited resources that are available. Chairman Smith thanked Mr. Bybee for his comments.

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REDESIGN OF MODOT WEBSITE

On behalf of the Director, Matt Hiebert, Assistant Communications Director, reported on September 17, 2018 the department launched a redesigned website. MoDOT’s website had not been upgraded since 2003. As a result, customers using mobile devices had a difficult time navigating the site, and employees often had to spend unacceptably large amounts of time making simple updates. This led to the MoDOT site falling below current technological standards and expectations. To address these

shortcomings, the site was migrated, to a content management system called Drupal. This system will allow the site to properly size and stack content to any mobile device or desktop/laptop computer. It also significantly reduces staff time for content updates and creation. It also allows new features to be added to the site that were previously unavailable. Director McKenna thanked Mr. Hiebert for his efforts in leading the collaborative work that took place across the department. Coordination between the Information Systems and Communications divisions was crucial as well as having all districts and divisions participating in the content migration for their respective areas. The most popular tool on the website during emergencies is the Traveler Information Map; this new format makes it much better for the traveling public to use the Traveler Information Map.

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COMMISSION POLICY REVIEW – COMMISSION CATEGORY

Following a comprehensive review of all Commission policies, on November 7, 2013, the Commission formally compiled and adopted the Commission policies that the department currently operates under today. Since this initial action some policies have been updated as necessary. As part of the Commission's desire to periodically review Commission policies, the department and Commission have conducted a thorough review of the policies in the Commission Category. As a result of this review process recommendations were made to reaffirm or reaffirm with updates the policies in the Commission category. On behalf of the Director, Pamela Harlan, Secretary to the Commission, recommended the COMMISSION category of policies be revised as indicated with the green text for new language and the red strikethrough text for deleted language as follows:

Category: COMMISSION
Subcategory: Guiding Principles

Commentary: In 1921, the General Assembly, in extra session, passed the Centennial Road Law, which, among other things, established a State Highway Commission and designated a State Highway System. The first meeting of the newly created Commission was on December 6, 1921. At that meeting, the Commission established two guiding principles: one related to Statewide Perspective and the other to the Commission acting in unison and statement that all employees and contractors must be qualified. A third guiding principle was enacted at the Commission's second meeting; it related to the public being treated courteously by Department employees. Those guiding principles are still applicable today.

Category: COMMISSION
Subcategory: Guiding Principles

STATEWIDE PERSPECTIVE

Note: This was the first action taken at the first meeting of the State Highway Commission on December 6, 1921.

WHEREAS, the Missouri highways are of state concern,

THEREFORE BE IT RESOLVED, that notwithstanding each member of this Commission comes from a different section of the state, it is the declared intention of this Commission to view the road program as a whole, and each member hereby pledges to the people throughout the state to conduct the program broadly and, so nearly as possible, with a vision of the needs of the state as a whole.

Effective Date: December 6, 1921

Supersedes Policy Dated:

Last Reaffirmed: ~~November 7, 2013~~ [October 3, 2018](#)

Date of Origin: December 6, 1921

Related Commission Minutes: December 6, 1921; Reaffirmed by specific Commission action on February 10, 1925; October 13, 1925; December 13, 1927; August 14, 1945; November 7, 2013 – Comprehensive Policy Review. [October 3, 2018 – Comprehensive Policy Review.](#)

Category: COMMISSION
Subcategory: Guiding Principles

COMMISSION TO ACT IN UNISON, EMPLOYEES AND CONTRACTORS TO BE QUALIFIED

Note: The second action taken at the first meeting of the State Highway Commission on December 6, 1921, was as follows:

WHEREAS, it is desirable that the people of the state be given accurate information of the work of this Commission and that harmony prevail in its actual functioning;

BE IT RESOLVED, that it shall be and is the policy of this Commission to give opinions and express preferences of types, locations and methods of constructing roads only when approved by at least a majority of this Commission in session and that no person shall be promised position or employment by

this Commission or in said road work, except upon condition that he qualify to the satisfaction of the Commission.

Effective Date: December 6, 1921

Supersedes Policy Dated:

Last Reaffirmed: ~~November 7, 2013~~ October 3, 2018

Date of Origin: December 6, 1921

Related Commission Actions: December 6, 1921; Reaffirmed by specific Commission action on February 10, 1925; October 13, 1925; December 13, 1927; November 7, 2013 – Comprehensive Policy Review. [October 3, 2018 – Comprehensive Policy Review.](#)

Category: COMMISSION
Subcategory: Guiding Principles

PUBLIC TO RECEIVE COURTEOUS TREATMENT

Note: This third guiding principle was enacted by the Commission at its second meeting held on January 11, 1922.

It is the settled policy of this Commission that all persons, and the public generally, having business with this Department must be given prompt and due consideration and courteous treatment by all employees and persons connected with this Commission, including contractors doing business for, under or with this Commission, and the Commission welcomes and desires information or complaints from any person or persons not so treated, or from anyone observing any act of inattention or discourtesy on the part of anyone connected with this Department.

Effective Date: January 11, 1922

Supersedes Policy Dated:

Last Reaffirmed: ~~November 7, 2013~~ October 3, 2018

Date of Origin: January 11, 1922

Related Commission Minutes: January 11, 1922; Readopted August 14, 1945; November 7, 2013 – Comprehensive Policy Review. [October 3, 2018 – Comprehensive Policy Review.](#)

Category: COMMISSION
Subcategory: Guiding Principles

TRANSPORTATION SYSTEM – MULTIMODAL PERSPECTIVE

As a result of a Constitutional Amendment approved by voters on November 6, 1979, effective January 1, 1980, the Commission's responsibilities expanded to include oversight of aviation, transit, railways, and waterways, in addition to retaining its responsibility for highways.

A transportation system connecting all modes of transportation is essential for the mobility of all citizens and for providing opportunities for economic growth and prosperity. Therefore, it is the declared intention of this Commission to view the transportation system as a whole, incorporating all modes of transportation, and to cooperatively work with those having ownership responsibility for aviation,

transit, railway, and waterway facilities, as well as interstate and local roads and streets, to ensure, as nearly as possible, a seamless inter-connected transportation system.

Effective Date: November 7, 2013
Supersedes Policy Dated:
Last Reaffirmed: [October 3, 2018](#)
Date of Origin: November 7, 2013
Related Commission Minutes: November 7, 2013 – Comprehensive Policy Review. [October 3, 2018 – Comprehensive Policy Review.](#)

Category: COMMISSION
Subcategory: Guiding Principles

TRANSPARENCY – OPEN MEETINGS AND RECORDS

It is the intention and expectation of this Commission that the business of the Missouri Department of Transportation will be transparent. Its meetings, records, planning, projects, and practices will be open and available to the public as provided under the Missouri Open Records law (Chapter 610 RSMo ~~2000~~, as amended). The Secretary to the Commission will be responsible for maintenance of the Department’s and [Commission’s](#) records (see Section 610.023 and [226.050 RSMo ~~2000~~](#), as amended). The Director is authorized to adopt and implement procedures for responding to requests for access to open records.

Effective Date: ~~November 7, 2013~~ [October 3, 2018](#)
Supersedes Policy Dated: [November 7, 2013](#)
Last Reaffirmed:
Date of Origin: November 7, 2013
Related Commission Minutes: November 7, 2013 – Comprehensive Policy Review. [October 3, 2018-minor updates made.](#)

Category: COMMISSION
Subcategory: Policies and Administrative Rules

Commentary: As provided in [Article IV](#), Section 29 of the Missouri Constitution, the Highways and Transportation Commission is in charge of the Department of Transportation. The Commission has authority over the state highway system and other transportation programs and facilities as provided by law, including, but not limited to, aviation, railroads, mass transportation, ports, and waterborne commerce. [Section 226.130.1\(2\) RSMo](#) says the Commission shall prescribe rules and regulations not inconsistent with law, fixing the duties of all persons employed by the Commission.

Category: COMMISSION
Sub-Category: Policies and Administrative Rules

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION POLICIES

Maintenance of Policies

The Secretary to the Commission is charged with the responsibility of maintaining current Commission policies and a history thereof.

Consideration of Policy Changes

Specific policies may be created, revised, reaffirmed, or rescinded at any regularly scheduled or special meeting of the Commission.

The Commission will approve the specific language of all policies. Staff recommendations for new policies, therefore, should include draft policy language. Recommendations for policy revisions should include a red-line version showing the change to the current policy. Recommendations for rescinding or reaffirming a policy should include a copy of the current policy for ready reference.

Effective Date

Unless otherwise directed by the Commission, the effective date of the policy will be the date of the Commission meeting wherein the specific policy was approved or revised. Reaffirmation of a policy will not change the policy's effective date.

Comprehensive Review

To make certain that all policies have been previously considered by a majority of those on the current Commission, the Commission will comprehensively review its policies ~~periodically every two years.~~ Preferably, ~~In order for newly appointed Commissioners (who are generally appointed in odd-numbered years) to be well informed on the purpose and content of the policies,~~ this review will take place ~~every three to four years in even-numbered years~~ as schedules allow. The review will include staff recommendations for reaffirming, revising, or rescinding each of the policies. ~~The first comprehensive review of these policies will take place in 2016 and every two years thereafter.~~

Effective Date: ~~November 7, 2013~~ October 3, 2018

Supersedes Policy Dated: November 7, 2013

Last Reaffirmed:

Date of Origin: November 7, 2013

Related Commission Minutes: November 7, 2013 – Comprehensive Policy Review. October 3, 2018 changed the review schedule from biannually to every three to four years.

Category: COMMISSION
Subcategory: Policies and Administrative Rules

ADMINISTRATIVE RULES (Code of State Regulations)

Specific Delegation of Authority

The Missouri General Assembly, from time to time, includes provisions within specific statutes charging the Commission with the responsibility to file administrative rules for the purpose of implementing the related statute. In some instances filing such rules is required; in others the statutes authorize the Commission to file rules, but they are not mandated.

General Authority for Commission to Promulgate Rules

In addition, Section 227.030.2 RSMo empowers the Commission with the authority to make all final decisions and file all rules and regulations it may deem necessary in order to construct and maintain the highway system to the best interest and advantage of the people of the state.

The impetus for an administrative rule could include a change in federal law or rule, a change in state statute or rule, a directive of the Commission, a business need identified by the department, or a request from industry, customers, or business partners.

*No such rules shall be inconsistent with the statutes. According to the Secretary of State's Office, all **rules and regulations have the same force and effect of law.***

Statutory Rule Process

*Because of the potential impact on Missouri citizens of rules promulgated by state agencies, **Missouri's** process for promulgating rules is quite extensive.*

- Rules proposed by state agencies of the Executive Branch must be pre-filed with the Governor's office who will issue a letter of approval.*
- All rules proposed by state agencies must ~~first receive concurrence of~~ be filed with Secretary of State, Small Business Regulatory Fairness Board, and the legislative Joint Committee on Administrative Rules on the same day.*
- ~~Following that concurrence,~~ The proposed rules must then be published by the Secretary of State in the Missouri Register and the public allowed thirty days to provide comments thereon.*
- All proposed rules must be posted to the agency's website pursuant to Section 536.016.3 RSMo within one business day of when such rule is published in the Missouri Register.*
- Following the comment period, the proposed rules must be reconsidered by the respective state agency and, based on the public comments that are received, may be revised prior to submitting the **final order of rulemaking** for approval of the Joint Committee on Administrative Rules and ultimate publication by the Secretary of State in the Code of State Regulations.*
- The effective date of each rule is determined by the Secretary of State and included with each rule and regulation.*

Staff Rule Development Process

The Commission takes very seriously the potential effect of all administrative rules promulgated by federal and state agencies upon its citizenry, business interests, and other entities; therefore, the process for promulgating rules pertaining to the Department of Transportation shall include the following:

- Once a need to promulgate administrative rules is identified, MoDOT staff will review with the Commission the impetus, desired outcomes, and potential impacts.
- In order to be certain that potentially affected parties are aware of and understand the Commission’s draft proposed rules AND to be certain that MoDOT staff is aware of and understand the potential impacts of those rules on the affected parties, the staff shall reach out to all known interested and affected parties and proactively work toward a mutual understanding prior to presenting draft proposed rules to the Commission for action thereon.
- A summary of statements or letters in support of, or opposition to, the promulgation of rules must accompany the staff recommendation.
- All proposed orders of rulemaking, final orders of rulemaking, and emergency rules shall be approved by the Commission prior to being filed with the Joint Committee on Administrative Rules and the Secretary of State.
- Subject to the provisions noted above, the Director is authorized to establish procedures for the department to follow when creating or modifying administrative rules.

Effective Date: ~~October 15, 2014~~ October 3, 2018
 Supersedes Policy Dated: ~~November 7, 2013~~ October 15, 2014
 Last Reaffirmed:
 Date of Origin: November 7, 2013
 Related Commission Minutes: November 7, 2013 – Comprehensive Policy Review, October 15, 2014-Revised. [October 3, 2018 revised to include new gubernatorial office review.](#)

Category: COMMISSION
Subcategory: Delegation of Authority to Director and Chief Engineer

DELEGATION OF AUTHORITY TO DIRECTOR AND CHIEF ENGINEER

In addition to the policies below delegating broad authority to the Director and Chief Engineer, see subject-related policies for delegation of authority as it may relate to specific issues.

DIRECTOR

Authority to Implement Policies

The Director is authorized to establish procedures and directives necessary to implement the Commission’s policies. Notwithstanding delegation of authority to the Director, all issues deemed by the Director to be unique, sensitive, and/or potentially controversial will be submitted to the Commission.

Personnel Policies

The Director, or his/her designee, is authorized to establish policies and procedures pertaining to:

- Employment and separations.
- Employee conduct and performance.
- Grievances and complaints.
- Discipline.
- Salary administration.
- Working hours.

- Training and development.
- Leaves of absence.
- Safety and health.
- Relocation and travel.
- Employee recognition and awards.
- Like subjects pertaining to personnel.

In those areas where the Commission has adopted specific policy statements related to personnel issues, the Director’s policies shall adhere thereto. Notwithstanding the provisions of this policy statement, all unique, sensitive and/or potentially controversial personnel policies will be submitted to the Commission.

Delegation of Contingent Authority

Effective whenever the Commission lacks sufficient members for a statutory quorum of members, or the Commission has less than six statutory members and the incapacity of a member contributes to the Commission being unable to achieve a statutory quorum, for a regular monthly or specially scheduled meeting due to delays in the appointment and confirmation process for Commission members, the Director, after consultation with the Commission Chair, or the Vice-Chair if the Chair is unavailable, may approve:

- the operating budget and/or amendments to it;
- the statewide transportation improvement program and/or amendments to it; and
- award and rejection of bids for the construction of state highways.

This delegation of contingent authority exercised by the Director shall be subject to ratification by the Commission at the next regular monthly meeting a statutory quorum is attained.

Effective Date: May 16, 2014
 Supersedes Policy Dated: November 7, 2013
 Last Reaffirmed: [October 3, 2018](#)
 Date of Origin: November 7, 2013
 Related Commission Minutes: November 7, 2013 – Comprehensive Policy Review. May 16, 2014 added delegation of contingent authority. [October 3, 2018 – reaffirmed.](#)

CHIEF ENGINEER

Engineering Issues

In accordance with Section 226.040 RSMo-~~2000~~, as amended, the Chief Engineer shall be responsible for the preparation and approval of all engineering documents, plans, and specifications and shall have general oversight of construction and maintenance work for the department as determined by the Director. In complying therewith, the Chief Engineer shall develop and keep current engineering standard plans, specifications and policies for the planning, design, construction, maintenance and operation of the state highway system that further the mission of the department and are aligned with the department’s values and tangible results. Federal and state law and federal guidance shall be the foundation for said plans, specifications and policies. The Commission may delegate additional authority for certain related administrative actions such as execution of documents, procurement and administration.

Engineering Policy Guide

To facilitate public knowledge and understanding of engineering processes and requirements of the Department, the Chief Engineer shall be responsible for preparation and upkeep of an Engineering Policy Guide (EPG) as a single reference for all engineering and engineering-related guidance; however, in those cases where the Commission has adopted a specific policy, the provision of the EPG will be in conformance therewith. The EPG shall be made easily accessible to the public via the Internet and such other means deemed by the Chief Engineer to be beneficial to the public and MoDOT business partners.

Effective Date: ~~November 7, 2013~~ October 3, 2018
Supersedes Policy Dated: November 7, 2013
Last Reaffirmed:
Date of Origin: November 7, 2013
Related Commission Minutes: November 7, 2013 – Comprehensive Policy Review. October 3, 2018–minor change to statutory citation.

Category: COMMISSION
Subcategory: Meetings

Related Statutes: Section 226.120, RSMo–Quorum, Monthly Meetings Required
Section 226.050, RSMo–Secretary, Duties and Powers
Section 610.020.7, RSMo–Notice of meetings, Minutes of Meetings, Voting Records

MEETING FREQUENCY AND LOCATION

Commentary: In keeping with Section 226.120 RSMo, the Commission shall meet at least once each month and at such other times, and at such places within the state, as the Commission shall determine. Four members of the Commission constitute a quorum for the transaction of business. The Chairman or, in the event of his inability to act, the Vice Chairman may call special meetings of the Commission upon notice to members.

Category: COMMISSION
Subcategory: Meetings

Related Statutes: Section 226.120, RSMo–Quorum, Monthly Meetings Required
Section 226.050, RSMo–Secretary, Duties and Powers
Section 610.020.7, RSMo–Notice of meetings, Minutes of Meetings, Voting Records

MEETING MINUTES

In compliance with Sections 226.050 and 610.020.7 RSMo ~~2000~~, the Secretary to the Highways and Transportation Commission will prepare and retain accurate minutes of Highways and Transportation Commission open and closed meetings. The meeting minutes, or excerpts therefrom, must be approved by the Commission prior to public distribution.

Effective Date: ~~November 7, 2013~~ October 3, 2018
Supersedes Policy Dated: November 7, 2013
Last Reaffirmed:
Date of Origin: November 7, 2013
Related Commission Actions: June 13, 1944; January 8-9, 1951- Excerpts; December 10-11, 1951; March 9, 1953; September 7, 1979; November 7, 2013 – Comprehensive Policy Review. October 3, 2018 – corrected statutory citation.

Category: COMMISSION
Subcategory: Meetings

DELEGATIONS

Scheduled Presentations

In order to be responsive to members of the public, elected officials, and others requesting time on the Commission's agenda, requests from the public are investigated by MoDOT staff to ensure mutual understanding of the matter prior to the issue being placed on the agenda. In keeping with that sentiment, the following process is used to schedule public presentations before the Commission.

1. Requests for a public presentation at a Commission meeting are sent to, or channeled through, the Secretary to the Commission.
2. The Secretary forwards the request to the Director and/or staff for a "top-down" review. Many times this review includes communications with the district/division and with the person making the request to ensure that the issue is thoroughly understood.
3. In those cases where the MoDOT staff cannot accommodate the desires of the individual or delegation making the request, the Director and/or staff advises the Secretary to the Commission to place the item on the Commission's agenda.
4. Scheduled presentations will be limited to ten minutes plus an additional five minutes, if needed, for questions from the Commission. Variance from this time allotment will be at the sole discretion of the Chairman.
5. An individual or delegation may present an issue one time in a 12-month period.

Exceptions to the above process:

The Commission **will** schedule good-will presentations from chambers of commerce, cities, and counties, etc., from the area where the meeting is being held.

The Commission **will not** schedule presentations on the following issues:

1. **Right of Way Negotiations** - Matters pertaining to right-of-way negotiations because a statutory process is in place to resolve such issues.
2. **Employee Concerns** - Matters pertaining to issues specific to individual employees because a process is in place for investigation of employee grievances.
3. **Litigation** - Matters in active litigation because the Commission is represented by counsel.
4. **Highway locations** - Matters pertaining to the location of highway improvements must follow the review process set out above.
5. **Repeat Issues** – Once a presentation has been made by a delegation and a Commission decision rendered thereon, future requests must follow the review process set out above

and will be considered only if information to be presented by the delegation was unknown to the Commission and could have affected its decision on the issue.

Unscheduled Presentations

Members of the public who have not scheduled presentations before the Commission may speak to the Commission on transportation-related issues by signing in at the registration desk by the time designated on the Commission meeting agenda. Comments will be limited to five minutes per person, ten minutes per topic. An individual or delegation may present an issue one time in a twelve-month period.

Effective Date: ~~November 7, 2013~~ October 3, 2018

Supersedes Policy Dated: November 7, 2013

Last Reaffirmed:

Date of Origin: November 7, 2013

Related Commission Minutes: January 10, 1922; January 11, 1922; April 12, 1927; August 13-14, 1945; March 11, 1946; November 7, 2013 – Comprehensive Policy Review. October 3, 2018 added divisions to review process and modified to gender neutral terms.

Category: COMMISSION

Subcategory: Meetings

STAFF DEPARTMENT PRESENTATIONS

Recognizing the broad scope of responsibilities of the Department of Transportation and the need for the Commission to be well-informed, the Director will schedule periodic presentations regarding Department operations, innovations, challenges, and other issues affecting Missouri's transportation system and its effect on Missouri citizens.

Effective Date: ~~November 7, 2013~~ October 3, 2018

Supersedes Policy Dated: November 7, 2013

Last Reaffirmed:

Date of Origin: November 7, 2013

Related Commission Minutes: November 7, 2013 – Comprehensive Policy Review. October 3, 2018 changed staff to department in policy title.

Category: COMMISSION

Subcategory: Members

RELATED INFORMATION FROM MISSOURI CONSTITUTION AND STATUTES

Missouri Constitution Article IV, Section 29

- *The Highways and Transportation Commission shall be in charge of the Department of Transportation. It shall have authority over the state highway system, all other transportation programs as provided by law, and it shall have authority to limit access to, from and across state highways and transportation facilities where the public interests and safety may require.*

- *Not more than one-half of the Highways and Transportation Commission members shall be of the same political party.*

Missouri Revised Statutes, Section 226.030 and 226.120

- *The Highways and Transportation Commission shall consist of six members who are appointed by the Governor, by and with the advice and consent of the Senate.*
- *A Commission member must be a taxpayer and resident of Missouri for at least five years prior to appointment.*
- *Commissioners serve terms of six years or until a successor is appointed and qualified.*
 - *If a vacancy occurs in any term of a Commissioner due to death, resignation, or removal, the successor shall be appointed for only the remainder of the unexpired term.*
- *Commissioners may receive compensation in the amount of \$25 per day for time spent in the performance of their official duties.*
- *Commissioners may receive reimbursement for necessary traveling and other expenses incurred while engaged in the discharge of their official duties.*
- *Section 226.030 - The Commission will elect the two most senior members from opposing political parties as chair and vice chair for one year. At the end of such year, the members serving as chair and vice chair shall have the option to rotate positions.*
- *Section 226.120 – The members of the Commission shall elect a member as a chairman and another vice chairman, each of whom shall hold such office for a term prescribed by the Commission.*

Missouri Revised Statutes, Section 226.033

Commissioners shall not:

- *Host or manage a political fund-raiser or solicit funds for any candidate who is seeking a statewide or nationally elected office.*
- *Serve on the board or chair any political action committee, ~~or~~ political party committee, or continuing committee.*

Missouri Revised Statutes, Section 226.090

- *Section 226.090 RSMo. ~~2000~~ prohibits actual conflicts of interest and provides, in part, that no MHTC member or MoDOT employee shall, directly or indirectly, have any pecuniary interest in, or act as agent for, the sale of road or bridge building material, equipment, tools, machinery or supplies, or in any contract for the construction or maintenance of state highways or bridges, or the financing thereof, or in any performance bond or workers' compensation or any other insurance furnished to MHTC, or insurance furnished to any person, firm or corporation contracting with MHTC.*

Category: COMMISSION
Subcategory: Members
Sub-Subcategory: Reporting Potential Conflicts of Interest

COLOR KEY:
 Green = new text
~~Red strikethrough = deleted text~~
~~Blue strikethrough = deleted and moved text~~
 Purple = text that was moved

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EXHIBIT 1 -- Summary of applicable ethics statutes.

REPORTING POTENTIAL CONFLICTS OF INTEREST

- (1) **Policy Purpose:** The purpose of this voluntary policy is to assist Commission members to:
 - (A) Recognize an actual or appearance of conflict of interest;
 - (B) Comply with applicable conflict of interest laws and rules; and
 - (C) Avoid controversy or embarrassment for the affected individual member, the Commission, and MoDOT.
- (2) **Responsibility of Commission Members:** Conflict of interest may take many forms. The correct analysis of a potential conflict depends upon the facts disclosed as well as the applicable law, if any. Each Commission member should be alert to any potential conflict of interest. The responsibility for avoiding potential conflict of interest and complying with applicable statutes and rules rests with the individual Commission member.

(4) (3) **General provisions:**

~~(A) **Responsibility of MHTC members:** Conflict of interest may take many forms. The correct analysis of a potential conflict depends upon the facts disclosed. The applicable statutes are inconsistent and difficult to reasonably apply in some situations. Each commission member must be alert to any potential conflict of interest prohibited by statute. The responsibility for avoiding conflict of interest and complying with applicable statutes rests with individual commission members.~~

(A) **Definitions:**

1. **Potential Conflict of Interest:** This is an activity or financial interest which may lead to either an actual conflict of interest or the appearance of a conflict of interest.
 - A. **Actual Conflict of Interest:** This is an activity or financial interest which is prohibited by law or rule.
 - B. **Appearance of Conflict of Interest:** This is an activity or financial interest which is not prohibited by law or rule, but may appear to be a conflict of interest in the eye of the beholder and thereby controversial in nature.
2. **Abstention/Abstain:** This is an action by a Commission member to decline to vote on a Commission agenda item/issue; however, the member may participate in and/or listen to Commission discussion of the issue.
3. **Recusal/Recuse:** This is an action whereby the member excuses himself or herself from an agenda item/issue. The member would not:
 - A. be provided Commission meeting backup material regarding the matter;
 - B. listen to or participate in Commission discussion of the issue;

- C. vote on the agenda item/issue; and
 - D. communicate with any Commission member and/or MoDOT employee regarding the issue.
- ~~(B)~~ **Policy purpose:** ~~The purpose of this voluntary policy is to assist commission members in complying with existing conflict of interest statutes, to avoid actual and a potential conflict of interest, and, thus, avoid a potential violation of any statute and embarrassment or for the affected individual, MoDOT and MHTC.~~
- ~~(E)~~ **(B) Informal advisory opinions:** Upon request, the chief counsel will provide any eCommission member with an attorney client privileged informal advisory opinion regarding any potential conflict of interest about which the eCommission member may have any question or concern.
- ~~(D)~~ **(C) Governor's director of boards and commissions:** The commission secretary shall provide correspond with the governor's director of boards and commissions to provide a copy of this policy six months prior to the scheduled expiration of any eCommission member's term of office, or immediately as soon as possible upon the inability of any eCommission member to complete his/her scheduled term of office for any reason. The commission secretary shall provide a copy of the correspondence to the director and the chief counsel. The purpose of this requirement is to assist the governor's staff in advising prospective eCommission members of the:
- ~~(1)~~ 1. the relevant conflict of interest ethics statutes;
 - ~~(2)~~ 2. the application of some of the relevant statutes that could cost prospective members money because MoDOT refrains from making purchases during a member's term of office from any business in which a Commission member has a financial interest during the member's term of office (e.g., section 105.454.1(1) and (2) RSMo 2005 and/or because Commission members are prohibited by law from having any direct or indirect pecuniary interest in the Commission's procurement of specified supplies, contracts for construction and maintenance of roads and the like under section 226.090 RSMo 2000); and
 - ~~(3)~~ 3. MHTC's Commission's policy for eCommission members to disclose potential conflicts of interest.
- ~~(E)~~ **State Financial Interest Statements:** ~~In addition to the required filing with the State Ethics Commission, commission members should file copies of their State Financial Interest Statements (also titled Personal Financial Disclosure Statement) required by Section 105.485 RSMo, 2000 with the commission secretary who will provide copies of such statements to the members of the conflicts committee and the chief counsel to aid the committee in assisting commission members in identifying potential conflicts of interest.~~
- ~~(F)~~ **(D) Conflicts committee membership:** ~~The~~ There shall be a MoDOT standing conflicts committee of MoDOT will to consist of the: chief engineer;; chief financial and administrative officer;; commission secretary;; and director of audits and investigations. The chief counsel, or his/her designated representative, shall serve as counsel to the committee.
- (E) State Financial Interest Statements:** In addition to the required filing with the Missouri Ethics Commission, Commission members should file copies of their State Financial Interest Statements (also titled by the Missouri Ethics Commission as the Personal Financial Disclosure Statements)

required by section 105.483(4) RSMo with the commission secretary who will provide copies of such statements to the members of the conflicts committee and the chief counsel to aid in assisting Commission members in identifying potential conflicts of interest.

~~(G) **Reminder notices:** The commission secretary will provide an annual reminder notice to each commission member to update, if appropriate due to a changed circumstance, his/her Commission Member Disclosure Report described under paragraph (2)(A) below.~~

~~(H)~~ (F) **Annual review of statutes:** After each legislative session, the chief counsel will review the applicable statutes and, if appropriate, prepare a report for ~~MHTC~~ the Commission with recommendations regarding any proposed changes to this policy.

~~(2)~~ (4) **Procedure for disclosure by all eCommission members of potential conflicts of interest (except attorney representation):**

(A) **Commission Member Disclosure Report:** When a eCommission member is first appointed to ~~MHTC~~the Commission and/or becomes aware that any of his/her activity and/or financial interest creates a potential conflict of interest, the member should file a written Commission Member Disclosure Report with the commission secretary that at a minimum includes: ~~(1) the nature of the interest or activity;~~

~~(2)~~ 1. a list of the member's current employer(s), if any, and a list of all business entities, if any, in which the member is an officer and/or has any ownership or financial interest that may directly or indirectly do business with ~~MHTC~~the Commission/MoDOT including the nature of the business or activity;

~~(3)~~ 2. a list of all real estate located in Missouri in which the member (individually or a business entity in which the member is an officer), has any ownership, leasehold, or other possessory or financial interest including the general nature of such interest (e.g., ownership, lease, etc.), and the use (e.g., residential, farming, commercial, etc.) and location (street address or township and range) of such real estate;

3. a list of any other activity and/or financial interest in an organization, association, district, business entity or the like in which the member has no ownership and receives no income, such as a membership, serving on a board of directors, or the like, including the general nature of the activity or interest (e.g., professional, social, charitable, etc.); and

4. for only Commission members who are attorneys:

A. a list of all current law firm clients doing business with, being regulated by, or litigating for or against the Commission/MoDOT from which the member received or receives income, including the nature of the client's business; and

B. a list of former law firm clients within the past five years who during that time period did business with, were regulated by, or litigated for or against the Commission/MoDOT from which the member received income, including the nature of the former client's business.

~~Also, see paragraph (1)(E) above regarding State Financial Interest Report.~~

- (B) **Distribution of Commission Member Disclosure Report:** The commission secretary will distribute the Commission Member Disclosure Report to all Commission members, the director, the chief counsel, all members of the conflicts committee, all MoDOT division directors, and all district engineers.
- (C) **Division and district review:** The MoDOT division directors and the district engineers shall review the Commission Member's Disclosure Reports and provide written comments to the commission secretary regarding:
- (1) 1. the effect of any potential conflict of interest on his/her area of responsibility; and
 - (2) 2. any additional information known by the staff that may have been overlooked by the Commission member in preparing the report.
- (D) **Conflicts committee review and advice to director:** After reviewing the Commission Member's Disclosure Reports and the staff comments, the conflicts committee shall advise the director of potential conflicts and the recommended course of action, if any, to be taken by MoDOT and the affected Commission member(s).
- (E) **Discussion with member:** With director concurrence of the course of action, the commission secretary and/or chief counsel will discuss the matter with the affected eCommission member(s).
- (F) **Amended Commission Member Disclosure Report:**
1. After filing a report with the commission secretary, if any Commission member becomes aware that any of the member's activity, financial interest, or specific matter to be presented to the Commission creates a potential conflict of interest, the Commission member should file a disclosure letter with the commission secretary to direct that the member's report be amended to include the potential conflict of interest.
 2. The commission secretary will distribute any amended Commission Member Disclosure Report as provided in section (4)(B) above.
- (F) (G) **Notice Assistance to members:** To assist the Commission members in identifying potential conflicts of interest, the director, commission secretary, chief counsel, and MoDOT division directors and district engineers will make every effort to alert the eCommission member if a disclosed item is related in any way to an agenda item before the eCommission for its action. This alert notice will include projects located within one mile of any real property in which a Commission member individually or a business entity in which the member is an officer, has any ownership, leasehold, or other possessory or financial interest.
- (G) (H) **Member's determination regarding participation in a eCommission action:** ~~If a commission member determines an agenda item to be a potential conflict of interest, the member should refrain from any MHTC discussion and/or vote regarding matters such as, but not limited to, award of a procurement contract, request for approval of route alignment, authority to contract with a design consultant, approval of detailed design plans, approval of detailed right of way plans, award of a construction contract, and the like.~~ If a Commission member determines a Commission meeting agenda item is a potential conflict of interest for herself or himself, the Commissioner should either abstain from voting on the issue or recuse himself or herself from

Commission discussion and voting on the issue.

- (I) **Annual update:** The commission secretary will provide an annual reminder notice to each Commissioner to update, if appropriate, due to a changed circumstance, his/her Commission Member Disclosure Report.

~~(3) Procedure for disclosure by attorney MHTC members regarding legal representation by their law firms.~~

~~(A) Commission member disclosure:~~

- ~~1. Representation by another attorney in the member's law firm.—When a commission member who is an attorney becomes aware that another member of his or her law firm represents an interest that is or may be adverse to MHTC, MoDOT and/or a MoDOT employee acting in his/her official capacity, the commission member should disclose the representation in a letter to the chief counsel stating that he or she is not and will not become personally familiar with the facts or legal strategy of this representation by the member's law firm and will not personally participate in any future discussion by or decision of MHTC regarding the matter under representation.~~
- ~~2. Representation by the member.—When a commission member who is an attorney becomes aware that he/she personally represents an interest that is, or may be, adverse to MHTC, MoDOT and/or a MoDOT employee acting in his/her official capacity, the commission member should disclose the representation in a letter to the chief counsel stating why the member believes the continued representation of the adverse or potentially adverse interest is permissible, or in the alternative, what action the member has taken or will take to withdraw from the representation.~~

- ~~(B) Chief Counsel's report:—The chief counsel will review the matter and advise the MHTC member of his or her opinion regarding the representation, and then place the matter on the MHTC meeting agenda as a disclosure report.~~

- ~~(C) Pecuniary gain:—The commission member should avoid participating in any pecuniary gain realized by his or her law firm from the representation to avoid any potential or appearance of conflict of interest.~~

~~(4) (5) Real property acquisition procedure: When a Commission member individually or in a business entity in which the member is an officer has any ownership, leasehold or other possessory or financial interest in real property for which an offer of just compensation will be made so that it may be acquired by MHTC the Commission for a project, the following procedure should be used by the eCommission member and shall be followed by MoDOT staff and special conflicts counsel.~~

- (A) **Fee appraisal(s):** The district right of way staff will have a preliminary estimate of damages in a fee study. If in the fee study, the apparent compensation is estimated to be \$500 or more, the district's right of way unit staff will have one or more fee appraiser(s) determine just compensation for the property to be acquired and the damage, if any, to the property's remainder. If the apparent compensation in the fee study is less than \$500, the appraisal will be prepared by district staff appraiser(s) and approved by a district chief appraiser or right of way manager who is a certified appraiser.

- (B) **Central office review and approval:** If the approved offer is \$500 or more, a central office right of way ~~reviewing~~ appraiser or ~~field~~ right of way liaison officer who is also a certified appraiser will review the appraisal(s) and determine the approved offer of just compensation.
- (C) **FHWA review and approval:** MoDOT staff will secure review and approval of the appraisal(s) and the approved offer of just compensation from the Federal Highway Administration.
- (D) **MHTC Commission review and approval:** When the approved offer exceeds \$500, ~~S~~section 105.454.1(2), ~~(3)~~ RSMo. requires public notice before the sale of real property. Therefore, the ~~right of way director~~ state design engineer shall place the matter on ~~MHTC's~~ the Commission's open session meeting agenda for the Commission to review and finally approve the offer of just compensation (with the affected member ~~abstaining~~ recusing himself/herself from discussion and voting) prior to the offer being made to the ~~e~~Commission member. To provide adequate public notice, the agenda item shall be styled: "Purchase of Real Property Interest from Commissioner ." However, if the approved offer does not exceed \$500, ~~MHTC Commission~~ review and approval is unnecessary.
- (E) **Offer of just compensation to ~~MHTC~~ Commission member:** The approved offer will then be made by the district's right of way ~~department~~ staff to the ~~Commission~~ member, or the corporation or entity for which the member is an officer, or his/her/its authorized representative. However, the member/corporation/ entity will be encouraged to refuse the offer and go through condemnation to avoid any appearance of impropriety if the offer is more than \$10,000. Provided further, however, if the offer is \$10,000 or less, the member/corporation/entity need not be encouraged to go through condemnation and may execute a deed for the real property in exchange for the approved offer.
- (F) **Condemnation:** If the ~~MHTC~~Commission member agrees to the condemnation, the parcel will be condemned at the first opportunity by special conflicts counsel approved by ~~MHTC~~ the ~~Commission~~ (with the affected member ~~abstaining~~ recusing herself/himself from discussion and voting).
- (G) **Settlement:** Once the condemnation commissioners appointed by the circuit court have set a value for the property, if that value is acceptable to all parties, a proposed settlement in the amount of the condemnation commissioners' award should be presented to the court for its review, approval, and entry of a judgment, but the court shall be requested by the special conflicts counsel to delay its action until after the member's term ends to avoid any appearance of impropriety.
- (H) **Jury trial:** Should either party not agree with the value established by the condemnation commissioners and file exceptions to the condemnation commissioners' award, the special conflicts counsel should prepare the case for trial, but shall request the circuit court to delay the jury trial until after the ~~e~~Commission member's term expires to avoid any appearance of impropriety. The final price for the property will be that determined by jury verdict and the court's final judgment after appeal, if any.
- (I) **Rule 17:** Should the circuit court refuse under section ~~(4)~~(5)(G) or ~~(4)~~(H) above to delay the action under Missouri Supreme Court Operating Rule 17, the special conflicts counsel shall consult with ~~MHTC~~ the ~~Commission~~ in closed meeting regarding the appropriate course of action

(with the affected member being ~~excluded~~ recused from the meeting).

- (6) **Ethics Statutes:** The applicable statutes are complex and difficult to reasonably apply in some situations. A summary of the applicable statutes is attached as **EXHIBIT 1**. A copy of the statutes is available upon request to the chief counsel.

Effective Date: ~~November 7, 2013~~ October 3, 2018
Supersedes Policy Dated: ~~November 9, 2005~~ November 7, 2013
Last Reaffirmed:
Date of Origin: November 4, 1994

Related Commission Actions: November 4, 1994; December 1, 1995; April 3, 1997; March 12, 1999; May 5, 2000; November 8, 2000; September 4, 2003; November 9, 2005; November 7, 2013 – Comprehensive Policy Review; **October 3, 2018 – Comprehensive Policy Review.**

EXHIBIT 1
SUMMARY OF APPLICABLE ETHICS STATUTES
~~TABLE OF CONTENTS AND STATUTES CITED~~⁺

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⁺ A copy of the actual statutes consists of 24 pages and is available upon request from the Chief Counsel.

- 105.470 Definitions.
- 105.472 Violation of law-complaint-oath.
- 105.473 Duties of lobbyist-report required, contents-exception-penalties-
supersession of local ordinances or charters.
- 105.478 Penalty.

(3) ~~Specific conflict of interest statutes applicable to MHTC members~~

(A) ~~Motor carrier and railroad regulation~~

- ~~226.008 Responsibilities and authority of highways and transportation commission transfer of authority to department of transportation.~~
- ~~622.120 Administrative law judges and employees, oath, eligibility for office.~~
- ~~622.130 Prohibition against solicitation and gifts penalties for violation, misdemeanor.~~
- ~~622.480 Penalty for violating state law or an order of division violations are separate and distinct offenses carrier's liability for acts of officers and agents.~~

(B) ~~Political fundraising~~

- ~~226.033 Prohibitions on political fundraising for highway and transportation appointed after March 1, 2003.~~

(C) ~~Highway construction, maintenance, funding and insurance~~

- ~~226.090 Commissioners and employees oath bond selection and Removal of employees to be without regard to political affiliation.~~

(4) ~~Specific removal statutes applicable to MHTC members~~

- ~~226.030 Number of members qualifications term removal compensation.~~

ENDNOTES:

- 1 Definition of Business 11, 14
- 2 Definition of Property 13, 14

(1) **Introduction:** Commission members should be familiar with the ~~relevant and~~ applicable ethics statutes~~:~~. The statutes are summarized in this exhibit. A copy of the applicable statutes are available upon request to the chief counsel.

(2) **Specific conflict of interest statutes applicable to MHTC members:**

(A) **Political fundraising--**Section 226.033 RSMo says that any Commission member shall not:

1. Host or manage a political fund-raiser or solicit funds for any candidate who is seeking a statewide or nationally elected office; or
2. Serve on the board or chair any political action committee, political party committee, or continuing committee.

(B) **Highway construction, maintenance, funding and insurance--**

1. Section 226.090 RSMo prohibits actual conflicts of interest and provides, in part, that no Commission member or MoDOT employee shall, directly or indirectly, have any pecuniary interest in, or act as agent for, the sale of road or bridge building material, equipment, tools, machinery or supplies, or in any contract for the construction or maintenance of state highways or bridges, or the financing thereof, or in any performance bond or workers' compensation or any other insurance furnished to the Commission, or insurance furnished to any person, firm or corporation contracting with the Commission.
2. Section 226.090 RSMo states that a violation of its provisions is an unspecified misdemeanor. Pursuant to section 557.021.1 RSMo, unspecified misdemeanors carry the penalty of a class A misdemeanor.
 - A. Section 558.002.1(2) RSMo says that a person who is convicted of a class A misdemeanor may be sentenced to pay a fine which does not exceed \$2,000.
 - B. Section 558.011.1(6) RSMo says a person convicted of a class A misdemeanor may serve a prison term not to exceed 1 year.

(C) **Specific removal statute applicable only to MHTC members:** Section 226.030 RSMo provides that any commission member may be removed by the governor if the governor is fully satisfied of the Commission member's inefficiency, neglect of duty, or misconduct in office.

(D) **Motor carrier and railroad regulation--**Sections 226.008, 622.120 and 622.130 RSMo apply to MoDOT and its employees as a result of the 2002 One Stop merger and prohibit certain acts and financial interests.

³~~Business entity means any corporation, association, firm, partnership, proprietorship, or business entity of any kind or character (§105.450(2) RSMo).~~

1. Section 226.008.5 RSMo abolished the division of motor carrier and railroad safety within the department of economic development.
2. Pursuant to Section 226.008.3 RSMo, all the powers, duties and functions of the division of motor carrier and railroad safety under state law, including Chapter 622 RSMo, were transferred to MoDOT, which is governed by the Commission.
3. In the opinion of the chief counsel, section 622.120 RSMo prohibits the Commission from appointing anyone to an office or MoDOT from employing anyone in a position involved in the regulation of motor carriers or railroads who holds any official relation to, owns stocks or bonds therein or has any pecuniary interest in any common carrier, railroad corporation, street railroad corporation, transportation of freight or property company, carrier, corporation or person subject to any of the provisions of chapters 387, 388, 389, 390, 391 or 622 RSMo.
4. In the opinion of the chief counsel, section 622.130 RSMo prohibits any person appointed by the Commission to an office or employed by MoDOT in a position involved in the regulation of motor carriers or railroads from recommending any person for employment, directly or indirectly, to any common carrier or other person subject to regulation. Also, any regulated person or entity is forbidden from providing any Commission appointee or MoDOT employee any transportation that is free or at a reduced rate, or any present, gift, entertainment, or gratuity of any kind.
 - A. Any Commission appointee or MoDOT employee who violates section 622.130 RSMo is subject to removal from office or employment and further is guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding \$1,000 or imprisonment not exceeding one year, or by both fine and imprisonment. Section 622.130.2 and .4 RSMo.
 - B. Section 622.130.3 RSMo provides that if any common carrier or other person subject to the supervision of MoDOT violates 622.130 RSMo it, he, or she shall be liable to the state of Missouri in a civil action for a civil penalty not to exceed \$20,000 in addition to any other penalty for violation of chapter 622 RSMo.

(+) (3) **General financial interest statement statutes:** Sections 105.483 to 105.492 and 105.963 RSMo-2005, as amended, are applicable to certain state officials and decision making public servants, including ~~MHTC~~Commission members and select MoDOT management, and require ~~MHTC~~Commission members to file annual financial interest statements with the Missouri Ethics Commission which are then public records.

- ⊖ (A) Section 105.485 RSMo 2005 requires eCommission members in their annual statements to disclose specified information for the member, their spouse, and the member's dependent children, including, but not limited to:
 - ⊖ 1. annual income of \$1,000 or more from an employer (§105.485.2(1) RSMo);
 - ⊖ 2. the identity of any business entity²¹ in which the member has an ownership interest;

- ⊖ A. except that for closely held corporations or limited partnerships, no disclosure is required if the member owns less than 10% of any outstanding stock or limited partnership units; and
- ⊖ B. further except that for any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system, no disclosure is required where the member owns less than 2% of any class of outstanding stock, limited partnership units or other equity interests unless the member receives \$1,000 or more income per year from such business entity which would then require disclosure (§105.485.2(2), (3) RSMo);
- ⊖ 3. the name and address of each business entity in which the member owns stock, bonds, or other equity interest with a value in excess of \$10,000 except that such member does not need to report interests in publicly traded corporations or limited partnerships listed on a regulated stock exchange or automated quotation system nor interests in any qualified plan/annuity pursuant to the Employees' Retirement Income Security Act (§105.485.2(5) RSMo);
- ⊖ 4. the location and property tax classification of any real property in Missouri owned (or leased for more than 10 years) other than the member's residence, having a fair market value of \$10,000 or more, and, if the property is transferred during the year covered by the statement, the name and address of the person furnishing or receiving consideration for such transfer (§105.485.2(4) RSMo);
- ⊖ 5. the identity of each corporation for which the member served in the capacity of a director, officer or receiver (§105.485.2(6) RSMo);
- ⊖ 6. the name and address of each not-for-profit corporation, organization or union, whether incorporated or not, except for not-for-profit corporations formed to provide church services, fraternal organizations, or service clubs in which such person was an officer, director, employee or trustee but which the member draws no remuneration, as well as a general description of the nature and purpose of the organization (§105.485.2(7) RSMo);
- ⊖ 7. the name and address of each source from which the member received a gift or gifts, or honoraria or honorarium in excess of \$200 in value per source during the year covered by the statement ~~other than~~; ~~and~~ ~~or~~ ~~or~~ gifts construed to mean political contributions otherwise required to be reported, or gifts of hospitality such as food, beverages, or admissions to social, art, or sporting events, or informational material. ~~For purposes of this section, a~~ A gift would include gifts to or by creditors of the member for the purpose of canceling, reducing or otherwise forgiving the indebtedness of the member to that creditor (§105.485.2(8) RSMo);
- ⊖ 8. the lodging and travel expenses provided by any third person for expenses incurred outside the state of Missouri whether by gift or in relation to the duties of the member's

office with exceptions for travel for which the official may be reimbursed as provided by law, paid by family members, and the like (§105.485.2(9) RSMo);

- ⊖ 9. the assets in a revocable trust (§105.485.2(10) RSMo); ~~and~~
- ⊖ 10. the name, position, and relationship of any relative within the first degree of consanguinity or affinity to the member who: (1) is employed by the state of Missouri, by a political subdivision of the state, or a special district; (2) is a lobbyist; or (3) is a fee agent of the Department of Revenue (§105.485.2(11) RSMo); ~~and~~
- 11. the name and address of each campaign, political, continuing or candidate committee for which such person or any corporation listed on the person's financial interest statement, received payment (§105.485.2(12) RSMo).

⊖ (B) Violation of these sections may result in:

1. a member's loss of compensation, suspension, removal from office, and/or a daily late filing fee of ~~($\$10/\text{day}$)~~, increasing to $\$100/\text{day}$ after 30 days from receipt of notice from the Missouri Ethics Commission of the person's failure to file a financial interest statement (§105.492 and 105.963.3 RSMo); ~~and/or~~
2. pursuit of a criminal charge of a class B misdemeanor for knowingly misrepresenting or omitting any facts required to be contained in the financial interest statement (§105.492.4 RSMo).
 - A. Section 558.002.1(3) RSMo says that unless specifically provided otherwise, a person convicted of a class B misdemeanor may be sentenced to pay a fine that does not exceed $\$1,000$.
 - B. Section 558.011.1(7) RSMo says a person convicted of a class B misdemeanor may serve a prison term not to exceed **6 months**.

~~(2)~~ (4) General conflict of interest and lobbying statutes:

- ⊖ (A) Sections 105.452 ~~RSMo-2000~~ and Section 105.454 RSMo-~~2005~~ are general conflict of interest statutes applicable to all state officials and employees including MHTC members and MoDOT employees. These statutes prohibit actual conflicts of interest including, but not limited to:
 - ⊖ 1. favorably acting or refraining from acting on any matter or using decision making authority to obtain financial gain (§105.452.1(1), (4) and (5) RSMo-~~2000~~);
 - ⊖ 2. ~~disclosing and/or~~ using confidential information obtained in his/her official capacity in any matter with the intent to result in financial gain for himself, his spouse, his dependent child, or any business with which he is associated (§105.452.1(2) ~~and (3)~~ RSMo-~~2000~~);

3. disclosing confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself or any other person (§105.452.1 (3) RSMo);
 - ⊖ 4. performing any service for an agency in which he/she is an officer or employee or has supervisory authority for payment in excess of **\$500** per transaction or **\$5,000** per year without competitive bidding (§105.454.1(1), ~~(3) RSMo. 2005~~); ~~and~~
 5. participating in any matter, directly or indirectly, in which he or she attempts to influence any decision of any agency of the state in which he or she is an officer or over which he or she has supervisory power, when he or she knows the result of such decision may be the acceptance of the performance of a service or the sale, rental or lease of any property to that agency for consideration in excess of five hundred dollars' value per transaction or five thousand dollars' value per annum to him or her, to his or her spouse, to a dependent child or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received (§105.454.1(3) RSMo); and
 - ⊖ 6. selling or leasing any property^{3,2} to an agency in which he/she is an officer or employee or has supervisory authority over for payment in excess of **\$500** per transaction or **\$5,000** per year without competitive bidding (§105.454.1(2), ~~(3) RSMo. 2005~~). However, this provision does not apply to property that is condemned by the agency from its officer or employee (§105.466.3 RSMo. ~~2005~~).
- (B) Section 105.455 RSMo prohibits Commission members who vacate the office, whether by resignation, expulsion, or otherwise, from acting, serving, or registering as a lobbyist until six months after the vacation of such office.

³ ~~Property includes both real property and personal property. Real property includes land or real estate including whatever is erected on, growing on, or affixed to the land. Personal property includes all property that is not real property, including corporeal personal property such as products, equipment, machinery, tools, autos, merchandise, animals, etc., and incorporeal personal property such as stocks, bonds, annuities, patents, copyrights, etc.~~

~~regulated person or entity is forbidden from providing any MHTC appointee or MoDOT employee any transportation that is free or at a reduced rate, or any present, gift, entertainment, or gratuity of any kind.~~

- ~~o Any MHTC appointee or MoDOT employee who violates section 622.130 is subject to removal from office or employment and further is guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding \$1,000 or imprisonment not exceeding one year, or by both fine and imprisonment. Section 622.130.2 and .4 RSMo.~~

~~(B) Political fund raising—Section 226.033, RSMo 2003 provides that any MHTC member appointed or reappointed after March 1, 2004 shall not: (1) host or manage a political fund-raiser or solicit funds for any candidate who is seeking a statewide or nationally elected office; or (2) serve on the board or chair any political action committee, political party committee, or continuing committee.~~

~~(C) Highway construction, maintenance, funding and insurance—~~

- ~~o Section 226.090 RSMo 2000 prohibits actual conflicts of interest and provides, in part, that no MHTC member or MoDOT employee shall, directly or indirectly, have any pecuniary interest in, or act as agent for, the sale of road or bridge building material, equipment, tools, machinery or supplies, or in any contract for the construction or maintenance of state highways or bridges, or the financing thereof, or in any performance bond or workers' compensation or any other insurance furnished to MHTC, or insurance furnished to any person, firm or corporation contracting with MHTC.~~
- ~~o 226.090 states that a violation of its provisions is an unspecified misdemeanor. Pursuant to section 557.021 RSMo. 2000, unspecified misdemeanors carry the penalty of a class A misdemeanor.~~

~~(4) Specific removal statute applicable only to MHTC members: Section 226.030 RSMo 2004, as amended, provides that any commission member may be removed by the governor if the governor is fully satisfied of the commission member's inefficiency, neglect of duty, or misconduct in office.~~

ENDNOTES:

- 1 Definition of Business:** Business entity means any corporation, association, firm, partnership, proprietorship, or business entity of any kind or character (§105.450(2) RSMo).
- 2 Definition of Property:** Property includes both real property and personal property. Real property includes land or real estate, including whatever is erected on, growing on, or affixed to the land. Personal property includes all property that is not real property, including corporeal personal property such as products, equipment, machinery, tools, autos, merchandise, animals, etc., and incorporeal property such as stocks, bonds, annuities, patents, copyrights, etc.

Category: COMMISSION
Sub-Category: Members
Sub-Sub-Category: Social Events

RECEPTIONS

Stakeholders, Community Organizations, Chambers of Commerce and other interested parties may host a reception or event for the members of the Missouri Highways and Transportation Commission to provide opportunities for the Commissioners to learn more about the wants and needs of local communities, stakeholders and members of the public.

Those wishing to host a reception must make arrangements with the Secretary to the Commission, who will coordinate the scheduling of the event in alignment with the Commission meeting schedule.

The following requirements must be met for each event:

- A request must be submitted to the Secretary to the Commission.
- The event must be open to members of the public.
- Commissioners must pay for the expenses associated with their participation in the event. Expenses include event space, food, beverages, and the like.
- If alcohol is served all attendees must pay for their own drinks.
- MoDOT staff **will not** be required to attend the event.
 - MoDOT Staff that are invited will notify the Secretary to the Commission of the invitation, where upon they may request from the Secretary to the Commission the expense for attending the event, and inform the Secretary to the Commission whether or not they will attend.
 - MoDOT Staff attending must pay the expenses associated with their participation in the event. Expenses include event space, food, beverages, and the like.
- The event host will coordinate with the Secretary to the Commission on Commission member payment for expenses. The Secretary to the Commission will confirm with each Commission member the expense for and their attendance at the event prior to finalizing any plans with the host.

Effective Date: July 11, 2018

Supersedes Policy Dated:

Last Reaffirmed: [October 3, 2018](#)

Date of Origin: July 11, 2018

Related Commission Actions: July 11, 2018 new policy adopted. [October 3, 2018 reaffirmed.](#)

Category: COMMISSION
Sub-Category: Organization
Sub-Subcategory: Leadership

Related Statutes: Section 226.030 RSMo–Number of members–qualifications–term–removal–compensation
Section 226.100 RSMo–Principal office to be in Jefferson City–persons authorized to administer oaths.
Section 226.120 RSMo–Chairman and vice-chairman, election, term–quorum–monthly meeting, required.
Section 227.290 RSMo–Highways and transportation commission may convey or exchange land or leasehold.

COMMISSION CHAIR AND VICE-CHAIR

Election and Rotation of Chair and Vice-Chair

The Commission bi-annually elects a Chair and Vice-Chair to serve the Commission and MoDOT. Commissioners elected to these positions are in leadership roles that require extra time to fulfill the responsibilities. Each officer is charged with ensuring the integrity of the Commission’s decision-making processes, facilitating discussion, and motivating the Commission to be as effective as possible in fulfilling its responsibilities and duties.

The Commission elects its two most senior members, who must be from opposing political parties, as its Chair and Vice Chair for a period of one year; these terms begin in March of years that end with odd numbers. At the end of such year, the members serving as Chair and Vice Chair shall have the option to rotate positions: the member serving as Vice Chair will serve as Chair and vice-versa.

If one of the Commission leadership offices becomes vacant due to death, resignation, removal, or refusal to serve before the one-year leadership term expires, the Commission shall elect one of its members that is of the same political party as the vacating officer to serve the remainder of the vacating officer’s leadership term. Such election shall not prohibit that member from later serving as Chair and Vice Chair when such member’s seniority in Commission service qualifies him or her for those offices.

Any member reappointed shall only be eligible to serve as Chair or Vice Chair during the final two years of such member’s reappointment.

Authority and Responsibilities of the Chair

In addition to the regular duties and responsibilities inherent in the position of a Commissioner, the responsibilities of the Chair are listed below.

- Setting an example for the Commission and staff in terms of professionalism and ethical behavior.
- Reviewing the Commission meeting agendas created by the Director and ensuring that the timing for each discussion item is appropriate.
- May, as needed, call special meetings of the Commission upon notice to the members. *See 226.120 RSMo*
- Presiding over Commission meetings and running them in an orderly manner.

- Keeping meetings on point with the agenda and ensuring discussions stay focused and within the allotted time.
- Ensuring that all Commissioners participate fairly in discussions and all different points of view are heard and considered.
- Helping the Commission “speak in one voice” to best represent the membership as a whole.
- Encouraging Commissioners to have perfect attendance at meetings, including arriving on time and staying until the meeting has adjourned, in recognition of the fact that all Commissioners are valuable to the decision making process.
- Making sure the Commission has the appropriate amount of time for effective study and review of business under consideration.
- Maintains communication with the Director at all times, especially when issues arise and require immediate attention and consideration; and fosters a mutually beneficial relationship with the Director that helps both parties avoid surprises.
- Encourages a cooperative relationship between the Commission and the Governor’s office by seeking the Governor’s advice and counsel when appropriate so that both entities remain well informed of the state of Missouri’s transportation system.
- Addressing ethical issues that have been brought up by the Commission, MoDOT staff, or others.
- Representing MHTC to external groups and the media, as requested by the Commission.
- Coordinating the annual performance evaluation of the Director and Commission Secretary and conveying the results to them.
- **Ensure Commission members are selected to serve on committees and boards as provided by Commission policy or statute.** 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 (MTFC) and MoDOT and Patrol Employees’ Retirement System Board of Trustees (MPERS). ~~The Chairman ensures Commissioner Members are selected to serve on these committees and boards as provided by Commission policy or statute.~~
- Establishing ad-hoc committees, as needed.
- ~~May~~ Administer oaths so far as such authority is incidental to the performance of his or her duties. *See Section 226.100 RSMo*
- Certifying any actions taken by the Commission, when required, and executing documents on behalf of the Commission.
- Executes deeds and other documents used to convey property or property rights. *See Section 227.290.1 RSMo*
- Issues correspondence that conveys action, explains policy, or otherwise communicates the sentiment of the Commission.
- Performing any additional duties as required by action of the Commission.

Authority and Responsibilities of the Vice-Chair

In addition to the regular duties and responsibilities inherent in the position of a Commissioner, the responsibilities of the Vice-Chair are listed below.

- Educating himself or herself about the major activities of the MHTC so that he or she is able to take the place of the Chair if necessary.
- Serving as the Chair if the person elected to that position has resigned or cannot serve in that capacity.

- Performing all the duties of the Chair in the event of the Chair’s inability to act.
- ~~May~~ ~~e~~ ~~As needed~~, call special meetings of the Commission, in the event of the Chair’s inability to act, upon notice to the members. *See 226.120 RSMo*
- Collaborate with the Chair in conveying the performance evaluation results to the Director and Commission Secretary on an annual basis.
- ~~May~~ ~~a~~ Administer oaths so far as such authority is incidental to the performance of his or her duties. *See Section 226.100 RSMo*
- Executes deeds and other documents used to convey property or property rights. *See Section 227.290.1*
- Performing any other duties reasonably related to the office of Vice-Chair of MHTC if requested by the Commission.

Effective Date: ~~May 16, 2014~~ October 3, 2018
 Supersedes Policy Dated: May 16, 2014
 Last Reaffirmed:
 Date of Origin: May 16, 2014
 Related Commission Minutes: May 16, 2014 – New Policy. October 3, 2018 – grammar and statutory citation corrections.

Via approval of the consent agenda, the Commission unanimously approved the policy revisions described above.

* * * * *

FINANCIAL ADVISOR SERVICES

On behalf of the Director, Brenda Morris, Financial Services Director, recommended approval of the award for financial advisory services in connection with complex financial transactions to Public Financial Management (PFM), which is comprised of Public Financial Management, Inc. and PFM Financial Advisors LLC. The general financial advisor service fees will be \$250 per hour throughout the life of the contract. The fees for bond issuances will be \$75,000 for an issuance requiring a new indenture or lien and will be \$60,000 for an issuance under an existing indenture or lien.

Via approval of the consent agenda, the Commission unanimously approved the recommendation to approve an award to provide the Commission and Department financial advisory services to Public Financial Management (PFM), which is comprised of Public Financial Management, Inc. and PFM Financial Advisors LLC. Authorize the Director, Chief Engineer, Assistant Chief Engineer or the Chief Financial Officer to execute a three-year Financial Advisor Services Agreement with PFM with an

option for the Director or Chief Engineer to execute two, one-year extensions without further Commission approval. The Agreement and all extensions shall be approved as to form by the Chief Counsel's Office.

* * * * *

FISCAL YEAR 2019 BUDGET AMENDMENT

On behalf of the Director, Brenda Morris, Financial Services Director, recommended increasing disbursements \$11 million for the fiscal year 2019 budget. Ms. Morris also recommended transfers between operating budget categories to address changing priorities and provide greater flexibility to districts and divisions in funding program priorities.

Via approval of the consent agenda, the Commission unanimously approved the fiscal year 2019 budget amendment described above.

* * * * *

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 D09 and G06 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 September 21, 2018, letting, as recommended and noted in Table I below, (2) Rejection of Call B01 due to non-concurrence from Koch Performance Roads, Inc., (3) Concur in award to Lehman Construction LLC for bids received at the City of Wentzville's September 12, 2018 bid letting, as noted in Table III below.

**Table I
Award of Contracts
September 21, 2018, Bid Opening**

Call No.	Route	Counties	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
A01	36	Buchanan	J1P3120	\$2,479,910.57	\$0.00	Capital Paving & Construction, LLC	Bridge Rehabilitation
	Variou s		J1I3186				8 Bridge Rehabilitations
A02	148	Nodaway	J1P3010	\$2,301,371.78	\$0.00	Herzog Contracting Corp.	Resurface and Add Shoulders
C01	58	Cass	J4P3081E	\$4,037,050.31	\$0.00	Ideker, Inc.	Resurface and ADA Improvements
	Y		J4P3081H				Intersection Improvements
C02	69	Clay, Platte	J4S3284	\$465,218.00	\$0.00	Lehman Construction, LLC	Drainage and Culvert Extension
C03	45	Platte	J4P3295C	\$126,445.25	\$0.00	Streetwise, Inc.	Island Removal and Pavement Marking
D01	21, 32	Washington	J5P3212	\$4,105,000.00	\$0.00	Pace Construction Company	Resurface
D03	54	Camden	J5P3246	\$2,485,331.02	\$3,440.07	Magruder Paving, LLC	Pavement Improvements
D04	J	Camden	J5S0276	\$2,894,820.93	\$312.45	Lehman Construction, LLC	Bridge Replacement
D06	I- 44 Outer Rd	Phelps	J5S3364	\$999,121.16	\$0.00	N.B. West Contracting Company	Resurface
	Y, CC, HH		J5S3268				Seal Coat
D09*	100	Osage	J5S3306	\$255,310.00	\$0.00	Phillips Hardy, Inc.	Slide Repair
D10	C, W	Osage	J5S3339	\$898,343.77	\$0.00	Higgins Asphalt Paving Co., Inc.	Rut Filling and Seal Coat
D11	NN, YY	Boone	J5M0282	\$440,006.86	\$0.00	Christensen Construction Co.	Rut Filling and Seal Coat
F02	Variou s	St Charles, St Louis, St Louis City	J6Q3284	\$523,091.82	\$2,700.00	Meyer Electric Company, Inc.	ITS Improvements with Two Add Alternates
F03	H	St Louis City	J6S3219	\$938,622.27	\$1,100.00	L.F. Krupp Construction, Inc. dba Krupp Construction	Intersection Improvements
F04	E	Franklin	J6S3365	\$2,495,000.00	\$0.00	Pace Construction	Seal Coat

Call No.	Route	Counties	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
	K		J6S3366			Company	Fiber Reinforced Membrane Seal Coat
	P	Jefferson	J6S3367				Seal Coat
G01	83, MM	Benton, Hickory	J7P3130	\$3,837,467.83	\$0.00	Magruder Paving, LLC	Resurface
	A	St Clair	J7S3183				
G02	D	Barry, Stone	J7S3274	\$1,612,294.06	\$0.00	Blevins Asphalt Construction Company, Inc.	Resurface
	Z, TT		J7S3123				
G03	BL 44	Lawrence	J7S3273	\$819,940.39	\$0.00	Blevins Asphalt Construction Company, Inc.	Resurface
G05	B	McDonald	J7S3364	\$62,909.00	\$0.00	Emery Sapp & Sons, Inc.	Ditch Maintenance
	H		J7S3364B				
G06**	13	Stone	J7P3374	\$169,261.15	\$0.00	Flat Creek Excavating, LLC	Ditch Repair
H01	60	Carter	J9P3199	\$1,503,000.00	\$0.00	Pace Construction Company	Resurface
			J9P3200				
H02	67	Wayne	J9P3501	\$1,386,708.00	\$41.52	H.R. Quadri Contractors, LLC	Slide Repair
H03	CC	Howell, Ozark	J9S3434	\$2,879,000.00	\$0.00	Pace Construction Company	Resurface
	W	Howell	J9S3241				
			TOTAL:	\$37,930,226.99	\$7,594.04		

* Call D09 – Funding by USDA – \$440,000.00

** Call G06 – Funding by Emergency Relief – \$25,000.00

**Table II
Rejection of Bids
September 21, 2018, Bid Opening**

Call No.	Route	County	Job No.	Description
B01*	63	Macon, Adair	J2M0276	Pavement Repair and Crackfilling

* Call B01 – Funding by Koch Performance Roads, Inc. – \$326,583.00

**Table III
City of Wentzville Bids
September 12, 2018, Bid Opening**

Route	County	Job No.	Bid Amount	Contractor	Description
70	St. Charles	J6I3201	\$3,821,108.10	Lehman Construction LLC	Interchange Grading
		TOTAL:	\$3,821,108.10		

Commission Consideration and Action

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

1. Awarded contracts to the lowest responsive bidders for bids received at the September 21, 2018, bid opening, as recommended and noted in Table I above. Non-contractual costs for these projects are shown on the above tabulation.
2. Rejected bids for Call B01 due to non-concurrence from Koch Performance Roads, Inc.
3. Concurred in award to Lehman Construction LLC for bids received at the City of Wentzville's September 12, 2018 bid letting, as noted in Table III above
4. Authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute the contracts awarded above.

Commissioner Smith abstained from voting on calls D03 and G01. Commissioner Pace abstained from voting on call H03.

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REQUEST FOR APPROVAL OF LOCATION AND/OR DESIGN OF HIGHWAYS

Route 54 / Business Route 54 / Route W, Miller County Job No. J5P3181 Public Hearing Held July 24, 2018

The proposed improvements will construct intersection safety improvement which will replace the existing signal at Route 54 and Business Route 54 with a grade separated interchange. The new interchange will be constructed as a three-quarter diamond with the fourth access utilizing the existing Business Route 54 as an off ramp for westbound traffic. A new connector road will be constructed under Route 54 using two new bridges on Route 54. Roundabouts will be used for intersection control at each end of the connector road and the westbound off ramp. The project will have fully controlled access right of way. The existing signal will remain operational during the construction of the interchange. The eastbound ramps will be utilized as a bypass, along with median crossovers, to keep all lanes of Route 54 open during construction of the bridges on Route 54. Osage Hills Road and Business Route 54

will remain open utilizing traffic control measures to construct under traffic with various lane shifts. This strategy will keep traffic delays to a minimum. The project is 0.805 miles in length.

On behalf of the Director, David Silvester, Central 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 environmental effects of the recommended location and design, the Commission via approval of the consent agenda unanimously found and determined the recommended designs would best serve the interest of the public and approved the recommendation.

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**Route 180, St. Louis County
Job No. J6S3048
Public Hearing Held June 28, 2018
Virtual Public Meeting Held June 29, 2018 – July 12, 2018**

The proposed improvement will resurface the roadway, improve safety, upgrade existing sidewalks along the corridor to meet the Americans with Disabilities Act (ADA) requirements and replace signals at seven intersections along the corridor. Route 180 is a principal arterial, with a typical section of two lanes in each direction with a multi-directional center turn lane that generally runs east-west. The project will have normal access right of way. The roadway will remain open to traffic during construction. Adequate signing will be provided to control traffic flow in the area and will be augmented through public information and outreach efforts to advise motorists of this traffic situation. The project is 6.44 miles in length.

On behalf of the Director, Thomas 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.

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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.

<u>County</u>	<u>Route</u>	<u>Job Number</u>
Christian	160	J8P3088B

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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CONSIDERATION OF DISPOSAL OF EXCESS PROPERTY, ROUTE 65 IN GREENE COUNTY, EXCESS PARCEL NUMBER SW-0296

In keeping with the Commission’s policy regarding disposition of Commission-owned property or property rights, the sale of all properties owned by the Commission with appraised or sale values of \$200,000 or more must be approved by specific Commission action.

On behalf of the Director, Travis Koestner, Southwest District Engineer, recommended conveyance of 1.85 acres of excess property located at the intersection of Route 65 and Route YY (Division Street) in the City of Springfield, to Napleton Equities, LLC for \$1 and other valuable consideration.

Via approval of the consent agenda, the Commission unanimously approved the property conveyance described above.

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-- REPORTS --

The Commission received the following written reports.

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

Ed Hassinger, 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 October 3, 2018 no rules were presented to the Commission for impetus approval, nor for Governor's Office review and approval, nor for Commission approval, nor filed with the Secretary of State and Joint Committee on Administrative Rules, nor for a public comment period, nor for filing final orders of rulemaking. No final Orders were filed with the Secretary of State. Three sets of rules were published in the Missouri Register and in the Code of State Regulations: Ignition Interlock, Railroad, and Transportation Corporations. Three sets of rules became effective: Plant Collection, Rest Areas, and Traffic Regulation.

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MEDICAL AND LIFE INSURANCE PLAN: MISSOURI DEPARTMENT OF TRANSPORTATION AND MISSOURI STATE HIGHWAY PATROL MEDICAL AND LIFE INSURANCE PLAN REPORT

Jeff Padgett, Risk and Benefits Management Director, provided financial and claims data reports for the period January 2018 through June 2018, and for the most recent five calendar years, to update the Commission on the cost and utilization of the Medical and Life Insurance Plan. The number of claims processed monthly in the first six months of calendar year 2018 decreased 10.8 percent compared to the first half of the 2017 calendar year. Medical claims decreased 20.4 percent and pharmacy claims decreased 2.2 percent when compared with the same timeframe in 2017. There was a decrease of 1.6 percent in 2017 total claims expense when compared to 2016, and a more than 11.5 percent increase in pharmacy spending from 2016 to 2017. This increase can be attributed to an increase in the cost of specialty drug claims. The total operating revenues increased 5.8 percent, which can be attributed to the

increase in medical premiums in 2018, and an increase in prescription rebates. Operating revenues have outpaced operating expenses thus far in the calendar year, resulting in net income of \$5.7 million.

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

Brenda Morris, Financial Services Director, submitted a written financial report for fiscal year to date August 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 August 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 362 active contracts held by individual engineering consultant firms prior to August 1, 2018. Thirteen engineering consultant services contracts were executed in August 2018, for a total of \$3,734,021. There was one non-engineering consultant contract executed in August 2018, for a total cost of \$140,224.

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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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