

FIRST REGULAR SESSION

# HOUSE BILL NO. 752

## 95TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES SCHIEFFER (Sponsor), DIXON, KUESSNER, TILLEY, LeVOTA, ROORDA, MEADOWS, FALLERT, SHIVELY, CARTER, HODGES, CASEY, HUMMEL, MORRIS, CALLOWAY, YAEGER, FAITH, BROWN (50), GATSCHENBERGER AND WETER (Co-sponsors).

1739L.011

D. ADAM CRUMBLISS, Chief Clerk

---

### AN ACT

To repeal sections 21.795 and 226.030, RSMo, and to enact in lieu thereof two new sections relating to transportation appointees.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 21.795 and 226.030, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 21.795 and 226.030, to read as follows:

21.795. 1. There is established a permanent joint committee of the general assembly to  
2 be known as the "Joint Committee on Transportation Oversight" to be composed of seven  
3 members of the standing transportation committees of both the senate and the house of  
4 representatives and three nonvoting ex officio members. Of the fourteen members to be  
5 appointed to the joint committee, the seven senate members of the joint committee shall be  
6 appointed by the president pro tem of the senate and minority leader of the senate and the seven  
7 house members shall be appointed by the speaker of the house of representatives and the  
8 minority floor leader of the house of representatives. No major party shall be represented by  
9 more than four members from the house of representatives nor more than four members from the  
10 senate. The ex officio members shall be the state auditor, the director of the oversight division  
11 of the committee on legislative research, and the commissioner of the office of administration  
12 or the designee of such auditor, director or commissioner. The joint committee shall be chaired  
13 jointly by both chairs of the senate and house transportation committees. A majority of the  
14 committee shall constitute a quorum, but the concurrence of a majority of the members, other

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 than the ex officio members, shall be required for the determination of any matter within the  
16 committee's duties.

17         2. [The transportation inspector general shall be appointed by majority vote of a group  
18 consisting of the speaker of the house of representatives, the minority floor leader of the house  
19 of representatives, the president pro tempore of the senate, and the minority floor leader of the  
20 senate. It shall be the duty of the inspector general to serve as the executive director of the joint  
21 committee on transportation oversight. The compensation of the inspector general and other  
22 personnel shall be paid from the joint contingent fund or jointly from the senate and house  
23 contingent funds until an appropriation is made therefor. No funds from highway user fees or  
24 other funds allocated for the operation of the department of transportation shall be used for the  
25 compensation of the inspector general and his or her staff. The joint committee inspector general  
26 initially appointed pursuant to this section shall take office January 1, 2004, for a term ending  
27 June 30, 2005. Subsequent joint committee on transportation oversight directors shall be  
28 appointed for five-year terms, beginning July 1, 2005. Any joint committee on transportation  
29 oversight inspector general whose term is expiring shall be eligible for reappointment. The  
30 inspector general of the joint committee on transportation oversight shall:

31         (1) Be qualified by training or experience in transportation policy, management of  
32 transportation organizations, accounting, auditing, financial analysis, law, management analysis,  
33 or public administration;

34         (2) Report to and be under the general supervision of the joint committee. The joint  
35 committee on transportation oversight shall, by a majority vote, direct the inspector general to  
36 perform specific investigations, reviews, audits, or other studies of the state department of  
37 transportation, in which instance the director shall report the findings and recommendations  
38 directly to the joint committee on transportation oversight. All investigations, reviews, audits,  
39 or other studies performed by the director shall be conducted so that the general assembly can  
40 procure information to assist it in formulating transportation legislation and policy for this state;

41         (3) Receive and process citizen complaints relating to transportation issues. The  
42 inspector general shall, when necessary, submit a written complaint report to the joint committee  
43 on transportation oversight and the highways and transportation commission. The complaint  
44 report shall contain the date, time, nature of the complaint, and any immediate facts and  
45 circumstances surrounding the initial report of the complaint. The inspector general shall  
46 investigate a citizen complaint if he or she is directed to do so by a majority of the joint  
47 committee on transportation oversight;

48         (4) Investigate complaints from current and former employees of the department of  
49 transportation if the inspector general receives information from an employee which shows:

50         (a) The department is violating a law, rule, or regulation;

- 51 (b) Gross mismanagement by department officers;  
52 (c) Waste of funds by the department;  
53 (d) That the department is engaging in activities which pose a danger to public health  
54 and safety;
- 55 (5) Maintain confidentiality with respect to all matters and the identities of the  
56 complainants or witnesses coming before the inspector general except insofar as disclosures may  
57 be necessary to enable the inspector general to carry out duties and to support recommendations;
- 58 (6) Maintain records of all investigations conducted, including any record or document  
59 or thing, any summary, writing, complaint, data of any kind, tape or video recordings, electronic  
60 transmissions, e-mail, or other paper or electronic documents, records, reports, digital recordings,  
61 photographs, software programs and software, expense accounts, phone logs, diaries, travel logs,  
62 or other things, including originals or copies of any of the above. Records of investigations by  
63 the inspector general shall be an "investigative report" of a law enforcement agency pursuant to  
64 the provisions of section 610.100, RSMo. As provided in such section, such records shall be a  
65 closed record until the investigation becomes inactive. If the inspector general refers a violation  
66 of law to the appropriate prosecuting attorney or the attorney general, such records shall be  
67 transmitted with the referral. If the inspector general finds no violation of law or determines not  
68 to refer the subject of the investigation to the appropriate prosecuting attorney or the attorney  
69 general regarding matters referred to the appropriate prosecuting attorney or the attorney general  
70 and the statute of limitations expires without any action being filed, the record shall remain  
71 closed. As provided in section 610.100, RSMo, any person may bring an action pursuant to this  
72 section in the circuit court having jurisdiction to authorize disclosure of information in the  
73 records of the inspector general which would otherwise be closed pursuant to this section. Any  
74 disclosure of records by the inspector general in violation of this section shall be grounds for a  
75 suit brought by any individual, person, or corporation to recover damages, and upon award to the  
76 plaintiff reasonable attorney's fees.
- 77 3.] The department of transportation shall submit a written report prior to November  
78 tenth of each year to the governor, lieutenant governor, and every member of the senate and  
79 house of representatives. The report shall be posted to the department's Internet web site so that  
80 general assembly members may elect to access a copy of the report electronically. The written  
81 report shall contain the following:
- 82 (1) A comprehensive financial report of all funds for the preceding state fiscal year  
83 which shall include a report by independent certified public accountants, selected by the  
84 commissioner of the office of administration, attesting that the financial statements present fairly  
85 the financial position of the department in conformity with generally accepted government  
86 accounting principles. This report shall include amounts of:

87 (a) State revenues by sources, including all new state revenue derived from highway  
88 users which results from action of the general assembly or voter-approved measures taken after  
89 August 28, 2003, and projects funded in whole or in part from such new state revenue, and  
90 amounts of federal revenues by source;

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

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

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

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

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

105 (3) The proposed allocation and expenditure of moneys and the proposed work plan for  
106 the current fiscal year, at least the next four years, and for any period of time expressed in any  
107 public transportation plan approved by either the general assembly or by the voters of Missouri.  
108 This proposed allocation and expenditure of moneys shall include the amounts of proposed  
109 allocation and expenditure of moneys in each of the categories listed in subdivision (1) of this  
110 subsection;

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

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

121 (6) The reasons for cost increases or decreases exceeding five million dollars or ten  
122 percent relative to cost estimates and final completed costs for projects in the state highway and

123 bridge construction program or any other projects relating to other modes of transportation  
124 completed in the preceding state fiscal year. Cost increases or decreases shall be determined by  
125 comparing the cost estimate at the time the project was placed on the most recent five-year  
126 highway and bridge construction plan and the final completed cost by project. The reasons shall  
127 include the amounts resulting from inflation, department-wide design changes, changes in project  
128 scope, federal mandates, or other factors;

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

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

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

135 [4.] **3.** Prior to December first of each year, the committee shall hold an annual meeting  
136 and call before its members, officials or employees of the state highways and transportation  
137 commission or department of transportation, as determined by the committee, for the sole  
138 purpose of receiving and examining the report required pursuant to subsection [3] **2** of this  
139 section. [The joint committee may also call before its members at the annual meeting, the  
140 inspector general of the joint committee on transportation oversight for purposes authorized in  
141 this section.] The committee shall not have the power to modify projects or priorities of the state  
142 highways and transportation commission or department of transportation. The committee may  
143 make recommendations to the state highways and transportation commission or the department  
144 of transportation. Disposition of those recommendations shall be reported by the commission  
145 or the department to the joint committee on transportation oversight.

146 [5.] **4.** In addition to the annual meeting required by subsection [4] **3** of this section, the  
147 committee shall meet two times each year. The co-chairs of the committee shall establish an  
148 agenda for each meeting that may include, but not be limited to, the following items to be  
149 discussed with the committee members throughout the year during the scheduled meeting:

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

151 (2) Discussion of department efficiencies and expenditure of cost-savings within the  
152 department;

153 (3) Presentation of a status report on department of transportation revenues and  
154 expenditures, including a detailed summary of projects funded by new state revenue as provided  
155 in paragraph (a) of subdivision (1) of subsection [3] **2** of this section; **and**

156 (4) [Review of any report from the joint committee inspector general; and

157 (5)] Implementation of any actions as may be deemed necessary by the committee as  
158 authorized by law.

159 The co-chairs of the committee may call special meetings of the committee with ten days' notice  
160 to the members of the committee, the director of the department of transportation, and the  
161 department of transportation.

162 [6.] 5. The committee shall also review for approval or denial all applications for the  
163 development of specialty plates submitted to it by the department of revenue. The committee  
164 shall approve such application by unanimous vote. The committee shall not approve any  
165 application if the committee receives a signed petition from five house members or two senators  
166 that they are opposed to the approval of the proposed license plate. The committee shall notify  
167 the director of the department of revenue upon approval or denial of an application for the  
168 development of a specialty plate.

169 [7.] 6. The committee shall submit records of its meetings to the secretary of the senate  
170 and the chief clerk of the house of representatives in accordance with sections 610.020 and  
171 610.023, RSMo.

226.030. 1. The highways and transportation commission shall consist of six members,  
2 who shall be appointed by the governor, by and with the advice and consent of the senate, not  
3 more than three thereof to be members of the same political party. Each commissioner shall be  
4 a taxpayer and resident of state for at least five years prior to his appointment. Any  
5 commissioner may be removed by the governor if fully satisfied of his inefficiency, neglect of  
6 duty, or misconduct in office. Commissioners appointed pursuant to this section shall be  
7 appointed for terms of six years, except as otherwise provided in this subsection. Upon the  
8 expiration of each of the foregoing terms of these commissioners a successor shall be appointed  
9 for a term of six years or until his successor is appointed and qualified which term of six years  
10 shall thereafter be the length of term of each member of the commission unless removed as  
11 above provided. The members of the commission shall receive as compensation for their  
12 services twenty-five dollars per day for the time spent in the performance of their official duties,  
13 and also their necessary traveling and other expenses incurred while actually engaged in the  
14 discharge of their official duties. Members whose terms otherwise expire December 1, 2003,  
15 shall serve with terms expiring March 1, 2004, and new members or the members reappointed  
16 shall be appointed for terms expiring March 1, 2005; a member whose term otherwise expires  
17 December 1, 2005, shall serve with a term expiring March 1, 2007; a member whose term  
18 otherwise expires December 1, 2007, shall serve with a term expiring March 1, 2009; and one  
19 member whose term otherwise expires October 13, 2007, shall serve with a term expiring March  
20 1, 2007; and one member whose term otherwise expires October 13, 2007, shall serve with a  
21 term expiring March 1, 2009. If a vacancy occurs in any term of a commissioner due to death,  
22 resignation, or removal, a successor shall be appointed for only the remainder of the unexpired  
23 term.

24           2. The two members of the commission, one each from opposing political parties, who  
25 have the most seniority in commission service shall serve as commission leadership with one  
26 member as chair and the other member as vice chair, respectively, for terms ending March 1,  
27 2005. The commission shall elect one of the members as chair and the other as vice chair.  
28 Effective March 1, 2005, the commission shall elect the two members of the commission, one  
29 from each opposing political party who has the most seniority in commission service, who shall  
30 serve as commission leadership with one member as chair and the other member as vice chair,  
31 respectively, for one year. At the end of such year, the member currently serving as chair shall  
32 then serve as vice chair, and the member currently serving as vice chair shall serve as chair, each  
33 to serve in such position for one year. Thereafter, commission leadership shall continue to rotate  
34 accordingly with the two members from opposing political parties who have the most seniority  
35 in terms of commission service being elected by the commission to serve as commission  
36 leadership. If one of the commission leadership offices becomes vacant due to death,  
37 resignation, removal, or refuses to serve before the one-year leadership term expires, the  
38 commission shall elect one of its members that is of the same political party as the vacating  
39 officer to serve the remainder of the vacating officer's leadership term. Such election shall not  
40 prohibit that member from later serving as chair and vice chair when such member's seniority  
41 in commission service qualifies him or her for those offices as provided in this subsection. **If**  
42 **the person next in line to serve in one of the commission leadership offices declines to serve**  
43 **in such capacity for any reason, the leadership position shall rotate to the next most senior**  
44 **member that is of the same political party as the declining member.**

45           3. No more than one-half of the members of the commission shall be of the same  
46 political party. The selection and removal of all employees of the department of transportation  
47 shall be without regard to political affiliation.

48           4. The present members of the commission shall continue to serve as members of the  
49 commission for the remainder of the terms for which they were appointed, except as provided  
50 in subsection 1 of this section.

51           5. [The director of the department of transportation shall, by February fifteenth of each  
52 year, present an annual state of the state of transportation to a joint session of the general  
53 assembly. The six members of the commission shall be present and available at such  
54 presentations for questions by members. The transportation inspector general may also be  
55 present and report to the general assembly on any matter of concern within his or her statutory  
56 authority. The provisions of this subsection shall expire August 28, 2008.

57           6.] Any member reappointed shall only be eligible to serve as chair or vice-chair during  
58 the final two years of such member's reappointment.

✓