

SECOND REGULAR SESSION

HOUSE BILL NO. 1967

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TRENT.

4280H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 36.010, 36.020, 36.030, 36.031, 36.040, 36.050, 36.060, 36.070, 36.080, 36.090, 36.100, 36.110, 36.120, 36.130, 36.140, 36.150, 36.152, 36.160, 36.170, 36.180, 36.190, 36.200, 36.210, 36.220, 36.225, 36.240, 36.250, 36.260, 36.270, 36.280, 36.290, 36.300, 36.310, 36.320, 36.330, 36.340, 36.350, 36.360, 36.370, 36.380, 36.390, 36.400, 36.410, 36.420, 36.430, 36.440, 36.450, 36.460, 36.470, 36.500, 36.510, 37.005, 37.010, 37.735, 42.012, 105.055, 105.950, 105.1105, 105.1110, 105.1114, 161.925, 181.043, 191.907, 207.085, 208.201, 210.170, 217.030, 217.160, 217.165, 217.665, 219.036, 236.405, 286.005, 288.220, 291.030, 510.035, 620.460, 620.568, 621.075, 630.003, 630.030, 630.035, 630.040, 630.167, 631.015, 632.015, 633.015, 640.010, and 660.010, RSMo, and to enact in lieu thereof forty-five new sections relating to state employees, with a delayed effective date.

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

Section A. Sections 36.010, 36.020, 36.030, 36.031, 36.040, 36.050, 36.060, 36.070,
2 36.080, 36.090, 36.100, 36.110, 36.120, 36.130, 36.140, 36.150, 36.152, 36.160, 36.170, 36.180,
3 36.190, 36.200, 36.210, 36.220, 36.225, 36.240, 36.250, 36.260, 36.270, 36.280, 36.290, 36.300,
4 36.310, 36.320, 36.330, 36.340, 36.350, 36.360, 36.370, 36.380, 36.390, 36.400, 36.410, 36.420,
5 36.430, 36.440, 36.450, 36.460, 36.470, 36.500, 36.510, 37.005, 37.010, 37.735, 42.012,
6 105.055, 105.950, 105.1105, 105.1110, 105.1114, 161.925, 181.043, 191.907, 207.085, 208.201,
7 210.170, 217.030, 217.160, 217.165, 217.665, 219.036, 236.405, 286.005, 288.220, 291.030,
8 510.035, 620.460, 620.568, 621.075, 630.003, 630.030, 630.035, 630.040, 630.167, 631.015,
9 632.015, 633.015, 640.010, and 660.010, RSMo, are repealed and forty-five new sections
10 enacted in lieu thereof, to be known as sections 36.010, 36.020, 36.040, 36.080, 36.090, 36.150,

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.

11 36.152, 36.420, 37.005, 37.010, 37.735, 42.012, 105.055, 105.950, 105.1105, 105.1110,
12 105.1114, 161.925, 181.043, 191.907, 207.085, 208.201, 210.170, 217.030, 217.160, 217.165,
13 217.665, 219.036, 236.405, 286.005, 288.220, 291.030, 510.035, 620.460, 620.568, 630.003,
14 630.030, 630.035, 630.040, 630.167, 631.015, 632.015, 633.015, 640.010, 660.010, to read as
15 follows:

36.010. [~~This chapter, together with any subsequent amendments thereto, shall be known
2 and may be referred to as "The State Personnel Law".]~~ **The governor shall by executive order
3 promulgate rules relating to personnel administration in the executive agencies of the state
4 including, but not limited to, rules relating to:**

- 5 **(1) The appointment to positions in the executive agencies of the state; and**
- 6 **(2) The dismissal of employees holding positions in the executive agencies of the**
7 **state.**

36.020. Unless the context clearly requires otherwise, **for purposes of this chapter**, the
2 following terms mean:

- 3 (1) "Agency", "state agency" or "agency of the state", each department, board,
4 commission or office of the state except for offices of the elected officials, the general assembly,
5 the judiciary and academic institutions;
- 6 (2) "Appointing authority", an officer or agency [~~subject to this chapter~~] having power
7 to make appointments **to positions in the executive agencies of the state**;
- 8 (3) [~~"Board", the personnel advisory board as established by section 36.050;~~
- 9 ~~——(4) "Broad classification band", a grouping of positions with similar levels of~~
10 ~~responsibility or expertise;~~
- 11 ~~——(5) "Class" or "class of positions", a group of positions subject to this chapter sufficiently~~
12 ~~alike in duties, authority and responsibilities to justify the same qualifications and the same~~
13 ~~schedule of pay to all positions in the group;~~
- 14 ~~——(6) "Director", the director of the division of personnel of the office of administration;~~
- 15 [~~(7) "Disabled veteran", a veteran who has served on active duty in the Armed Forces~~
16 ~~at any time who receives compensation as a result of a service-connected disability claim~~
17 ~~allowed by the federal agency responsible for the administration of veteran's affairs, or who~~
18 ~~receives disability retirement or disability pension benefits from a federal agency as a result of~~
19 ~~such a disability or a National Guard veteran who was permanently disabled as a result of active~~
20 ~~service to the state at the call of the governor;~~
- 21 ~~——(8)]~~ **(4) "Division of service" or "division", a state department or any division or branch**
22 **of the state, or any agency of the state government, all the positions and employees in which are**
23 **under the same appointing authority[;**

- 24 ~~————(9) "Eligible", a person whose name is on a register or who has been determined to meet~~
25 ~~the qualifications for a class or position;~~
- 26 ~~————(10) "Open competitive examination", a test for positions in a particular class, admission~~
27 ~~to which is not limited to persons employed in positions subject to this chapter;~~
- 28 ~~————(11) "Promotional examination", a test for positions in a particular class, admission to~~
29 ~~which is limited to employees with regular status in positions subject to this chapter;~~
- 30 ~~————(12) "Public hearing", a hearing held after public notice at which any person has a~~
31 ~~reasonable opportunity to be heard;~~
- 32 ~~————(13) "Register of eligibles", a list of persons who have been found qualified by an open~~
33 ~~competitive examination for appointment to a position;~~
- 34 ~~————(14) "Regular employee", an employee who has successfully completed a probationary~~
35 ~~period as provided in section 36.250;~~
- 36 ~~————(15) "Reinstatement register", a list of persons who have been regular employees and~~
37 ~~who have been laid off in good standing due to lack of work or funds, or other similar cause, or~~
38 ~~who have been demoted in lieu of layoff;~~
- 39 ~~————(16) "State equal employment opportunity officer", the individual designated by the~~
40 ~~governor or the commissioner of administration as having responsibility for monitoring the~~
41 ~~compliance of the state as an employer with applicable equal employment opportunity law and~~
42 ~~regulation and for leadership in efforts to establish a state workforce which reflects the diversity~~
43 ~~of Missouri citizens at all levels of employment;~~
- 44 ~~————(17) "Surviving spouse", the unmarried surviving spouse of a disabled veteran or any~~
45 ~~person who was killed while on active duty in the Armed Forces of the United States or an~~
46 ~~unmarried surviving spouse of a National Guard veteran who was killed as a result of active~~
47 ~~service to the state at the call of the governor;~~
- 48 ~~————(18) "Veteran", any person who is a citizen of this state who has been separated under~~
49 ~~honorable conditions from the Armed Forces of the United States who served on active duty~~
50 ~~during peacetime or wartime for at least six consecutive months, unless released early as a result~~
51 ~~of a service-connected disability or a reduction in force at the convenience of the government,~~
52 ~~or any member of a reserve or National Guard component who has satisfactorily completed at~~
53 ~~least six years of service or who was called or ordered to active duty by the President and~~
54 ~~participated in any campaign or expedition for which a campaign badge or service medal has~~
55 ~~been authorized].~~

36.040. [±] The division of personnel of the office of administration, the administrative
2 head of which is the personnel director, shall [administer this chapter and] render the services
3 to the departments and divisions [subject to the provisions of this chapter] that are necessary and
4 desirable to assist the officials in discharging their responsibility for maintaining and increasing

5 the effectiveness of personnel administration. The division shall provide consultation and
6 expertise in personnel management to all agencies to assist in the accomplishment of the
7 missions of such agencies.

8 ~~[2. The division shall administer this chapter in a manner which complies with equal
9 opportunity law and shall consult with the state equal employment opportunity officer in various
10 aspects of the administration of this chapter to ensure such compliance. In particular, the
11 division shall consult with the state equal employment opportunity officer regarding the
12 classification plan, the pay plan, qualifications for admittance to examinations, noncompetitive
13 registration and selection procedures, waiver of competitive examinations, noncompetitive
14 promotions, alternative promotional procedures, alternatives for filling vacancies, and layoff
15 actions, for the purpose of ensuring compliance with equal opportunity law and regulations and
16 on developed plans to establish a state workforce which reflects the diversity of Missouri citizens
17 at all levels of employment.]~~

36.080. 1. The director shall be a person who is experienced in the principles and
2 methods of personnel administration~~[- who is familiar with and in sympathy with the application
3 of merit principles and efficient methods of public administration]~~. He **or she** shall be appointed
4 for a term of four years beginning on July first following the election of a governor, which term
5 may be renewed at its expiration at the option of the governor~~[- except that the provisions of this
6 section shall not apply to the incumbent personnel director on September 28, 1979, who shall
7 retain such merit system status as has been previously attained]~~. **The governor, with the advice
8 and consent of the senate, shall fill any vacancy in the position of director.**

9 2. The personnel director shall not during his **or her** term of office, or for one year prior
10 thereto:

- 11 (1) Be a member of any local, state or national committee of a political party;
- 12 (2) Be a member of any partisan political club or organization;
- 13 (3) Actively participate in any partisan political campaign; or
- 14 (4) Hold or be a candidate for any partisan public office.

15 3. ~~[Upon an impending or actual vacancy in the position of director, the board shall
16 publicly solicit applications for the position and prepare and submit to the governor a list of the
17 five most qualified applicants. In the course of preparing such a list the board may engage the
18 services of persons experienced in personnel administration as consultants to assist it in
19 examining and determining the best qualified available persons for appointment as director. The
20 board shall be authorized to pay, out of the funds appropriated to it, the necessary travel and
21 other expenses of any consultants engaged under the provisions of this section, and may also
22 defray the travel expenses of candidates for the position who are requested to report for an
23 interview.]~~

24 ~~———4.]~~ The provisions of subdivision (2) of subsection 5 of section 1 of the Reorganization
25 Act of 1974 notwithstanding, the total compensation of any director appointed after September
26 28, 1979, shall not exceed the statutory salary of department heads.

27 ~~[5.—The provisions of subsection 8 of section 15 of the Reorganization Act of 1974~~
28 ~~notwithstanding, the governor shall appoint to the position of director, without regard to his~~
29 ~~political affiliation and subject to the advice and consent of the senate, one of the persons named~~
30 ~~on the list submitted by the board.~~

31 ~~———6.]~~ 4. The director may be removed by the ~~[board for just cause after being given a~~
32 ~~notice setting forth in substantial detail the charges before the board. A copy of the charges and~~
33 ~~a transcript of the record of the hearing shall be filed with the secretary of state]~~ **governor in**
34 **accordance with the rules promulgated under section 36.010.**

36.090. 1. The director, as executive head of the personnel division, shall direct and
2 supervise all its administrative and technical activities. ~~[In addition to the duties imposed upon~~
3 ~~him elsewhere in this chapter,]~~ It shall be his **or her** duty:

4 (1) To require the development of effective personnel administration and to make
5 available the facilities of the division to this end; **and**

6 (2) To develop in cooperation with appointing authorities a management training
7 program, a recruiting program, and a system of performance appraisals, and to assist appointing
8 authorities in the setting of productivity goals.

9 2. ~~[The director shall assist the board in the performance of its functions and attend board~~
10 ~~meetings.~~

11 ~~———3.]~~ The director shall:

12 (1) ~~[Establish and maintain a roster of all officers and employees subject to this law, in~~
13 ~~which there shall be set forth, as to each employee, a record of the class title of the position held;~~
14 ~~the salary or pay, any change in class title, pay or status, and such other data as may be deemed~~
15 ~~desirable to produce significant facts pertaining to personnel administration;~~

16 ~~———(2)]~~ Appoint~~], under the provisions of this chapter,]~~ and~~], with the approval of the board,]~~
17 fix the compensation of such experts and special assistants as may be necessary to carry out
18 ~~[effectively the provisions of this chapter, such employees to be selected upon the basis of merit~~
19 ~~and fitness and as other employees subject to this law unless otherwise directed under the~~
20 ~~provisions of this chapter]~~ **his or her duties;**

21 ~~[(3) Investigate the effects of this law, the rules promulgated under this law and the~~
22 ~~operation of the merit system and report his finding and recommendations to the board and the~~
23 ~~governor;~~

24 ~~———(4)]~~ (2) Make annual reports concerning the work of the division, problems in personnel
25 management, and actions taken or to be taken by the division to resolve those problems];

26 ~~———— (5) Perform any other lawful act which he may consider necessary or desirable to carry~~
27 ~~out the purposes and provisions of this law].~~

28 ~~[4-] 3.~~ The director shall appoint~~[- in full conformity with all the provisions of this~~
29 ~~chapter,]~~ a deputy or deputies. In case of the absence of the director or his **or her** inability from
30 any cause to discharge the powers and duties of his **or her** office, such powers and duties shall
31 devolve upon his **or her** deputy.

36.150. 1. ~~[Every appointment or promotion to a position covered by this chapter shall~~
2 ~~be made on the basis of merit as provided in this chapter. Demotions in and dismissals from~~
3 ~~employment shall be made for cause under rules and regulations of the board uniformly~~
4 ~~applicable to all positions of employment. No appointment, promotion, demotion or dismissal~~
5 ~~shall be made because of favoritism, prejudice or discrimination. The regulations shall prohibit~~
6 ~~discrimination in other phases of employment and personnel administration and shall provide~~
7 ~~such remedy as is required by federal merit system standards for grant-in-aid programs.~~

8 ~~————2-]~~ Political endorsements shall not be considered in connection with any ~~[such]~~
9 appointment **to a position in an executive agency of the state.**

10 ~~[3-] 2.~~ No person shall use or promise to use, directly or indirectly, for any consideration
11 whatsoever, any official authority or influence to secure or attempt to secure for any person an
12 appointment or advantage in appointment to any ~~[such]~~ **position in an executive agency of the**
13 **state** or an increase in pay, promotion or other advantage in **such** employment.

14 ~~[4-] 3.~~ No person shall in any manner levy or solicit any financial assistance or
15 subscription for any political party, candidate, political fund, or publication, or for any other
16 political purpose, from any employee in a position ~~[subject to this chapter]~~ **in an executive**
17 **agency of the state**, and no such employee shall act as agent in receiving or accepting any such
18 financial contribution, subscription, or assignment of pay. No person shall use, or threaten to
19 use, coercive means to compel an employee to give such assistance, subscription, or support, nor
20 in retaliation for the employee's failure to do so.

21 ~~[5-] 4.~~ No ~~[such]~~ employee **in a position in an executive agency of the state** shall be
22 a candidate for nomination or election to any partisan public office or nonpartisan office in
23 conflict with that employee's duties unless such person resigns, or obtains a regularly granted
24 leave of absence, from such person's position.

25 ~~[6-] 5.~~ No person elected to partisan public office shall, while holding such office, be
26 appointed to any position ~~[covered by this chapter]~~ **in an executive agency of the state.**

27 ~~[7-] 6.~~ Any officer or employee ~~[in a position subject to this chapter]~~ **in a position in**
28 **an executive agency of the state** who purposefully violates any of the provisions of this section
29 shall forfeit such office or position. ~~[If an appointing authority finds that such a violation has~~
30 ~~occurred, or is so notified by the director, this shall constitute cause for dismissal pursuant to~~

31 ~~section 36.390 and a final determination by the administrative hearing commission as to the~~
32 ~~occurrence of a violation.]~~

36.152. For the purposes of sections 36.152 to 36.159, the following terms mean:

2 (1) "Contribution", as defined in chapter 130;

3 (2) "Employee", any individual holding a position ~~[subject to the provisions of this~~
4 ~~chapter]~~ in an executive agency of the state;

5 (3) "Partisan political office", any office for which any candidate is nominated or elected
6 as representing a party pursuant to chapter 115.

36.420. The records of the personnel division, except such records as the regulations may
2 require to be held confidential for reasons of public policy, shall be public records and shall be
3 open to public inspection, subject to regulations as to the time and manner of inspection which
4 may be prescribed by the ~~[board]~~ **governor under section 36.010.**

37.005. 1. Except as provided herein, the office of administration shall be continued as
2 set forth in house bill 384, seventy-sixth general assembly and shall be considered as a
3 department within the meaning used in the Omnibus State Reorganization Act of 1974. The
4 commissioner of administration shall appoint directors of all major divisions within the office
5 of administration.

6 2. The commissioner of administration shall be a member of the governmental
7 emergency fund committee as ex officio comptroller and the director of the department of
8 revenue shall be a member in place of the director of the division of facilities management,
9 design and construction.

10 3. The office of administration is designated the "Missouri State Agency for Surplus
11 Property" as required by Public Law 152, eighty-first Congress as amended, and related laws for
12 disposal of surplus federal property. All the powers, duties and functions vested by sections
13 37.075 and 37.080, and others, are transferred by type I transfer to the office of administration
14 as well as all property and personnel related to the duties. The commissioner shall integrate the
15 program of disposal of federal surplus property with the processes of disposal of state surplus
16 property to provide economical and improved service to state and local agencies of government.
17 The governor shall fix the amount of bond required by section 37.080. All employees transferred
18 shall be covered by ~~[the provisions of chapter 36 and]~~ the Omnibus State Reorganization Act of
19 1974.

20 4. The commissioner of administration shall replace the director of revenue as a member
21 of the board of fund commissioners and assume all duties and responsibilities assigned to the
22 director of revenue by sections 33.300 to 33.540 relating to duties as a member of the board and
23 matters relating to bonds and bond coupons.

24 5. All the powers, duties and functions of the administrative services section, section
25 33.580 and others, are transferred by a type I transfer to the office of administration and the
26 administrative services section is abolished.

27 6. The commissioner of administration shall, in addition to his or her other duties, cause
28 to be prepared a comprehensive plan of the state's field operations, buildings owned or rented
29 and the communications systems of state agencies. Such a plan shall place priority on improved
30 availability of services throughout the state, consolidation of space occupancy and economy in
31 operations.

32 7. The commissioner of administration shall from time to time examine the space needs
33 of the agencies of state government and space available and shall, with the approval of the board
34 of public buildings, assign and reassign space in property owned, leased or otherwise controlled
35 by the state. Any other law to the contrary notwithstanding, upon a determination by the
36 commissioner that all or part of any property is in excess of the needs of any state agency, the
37 commissioner may lease such property to a private or government entity. Any revenue received
38 from the lease of such property shall be deposited into the fund or funds from which moneys for
39 rent, operations or purchase have been appropriated. The commissioner shall establish by rule
40 the procedures for leasing excess property.

41 8. The commissioner of administration is hereby authorized to coordinate and control
42 the acquisition and use of network, telecommunications, and data processing services in the
43 executive branch of state government. For this purpose, the office of administration will have
44 authority to:

45 (1) Develop and implement a long-range computer facilities plan for the use of network,
46 telecommunications, and data processing services in Missouri state government. Such plan may
47 cover, but is not limited to, operational standards, standards for the establishment, function and
48 management of service centers, coordination of the data processing education, and planning
49 standards for application development and implementation;

50 (2) Approve all additions and deletions of network, telecommunications, and data
51 processing services hardware, software, and support services, and service centers;

52 (3) Establish standards for the development of annual data processing application plans
53 for each of the service centers. These standards shall include review of post-implementation
54 audits. These annual plans shall be on file in the office of administration and shall be the basis
55 for equipment approval requests;

56 (4) Review of all state network, telecommunications, and data processing services
57 applications to assure conformance with the state information systems plan, and the information
58 systems plans of state agencies and service centers;

59 (5) Establish procurement procedures for network, telecommunications, and data
60 processing services hardware, software, and support service;

61 (6) Establish a charging system to be used by all service centers when performing work
62 for any agency;

63 (7) Establish procedures for the receipt of service center charges and payments for
64 operation of the service centers.

65

66 The commissioner shall maintain a complete inventory of all state-owned or -leased network,
67 telecommunications, and data processing services equipment, and annually submit a report to
68 the general assembly which shall include starting and ending network, telecommunications, and
69 data processing services costs for the fiscal year previously ended, and the reasons for major
70 increases or variances between starting and ending costs. The commissioner shall also adopt,
71 after public hearing, rules and regulations designed to protect the rights of privacy of the citizens
72 of this state and the confidentiality of information contained in computer tapes or other storage
73 devices to the maximum extent possible consistent with the efficient operation of the office of
74 administration and contracting state agencies.

75 9. Except as provided in subsection 12 of this section, the fee title to all real property
76 now owned or hereafter acquired by the state of Missouri, or any department, division,
77 commission, board or agency of state government, other than real property owned or possessed
78 by the state highways and transportation commission, conservation commission, state department
79 of natural resources, and the University of Missouri, shall on May 2, 1974, vest in the governor.
80 The governor may not convey or otherwise transfer the title to such real property, unless such
81 conveyance or transfer is first authorized by an act of the general assembly. The provisions of
82 this subsection requiring authorization of a conveyance or transfer by an act of the general
83 assembly shall not, however, apply to the granting or conveyance of an easement for any purpose
84 to any political subdivision of the state; a rural electric cooperative as defined in chapter 394; a
85 public utility, except a railroad, as defined in chapter 386; or to accommodate utility service,
86 including electrical, gas, steam, water, sewer, telephone, internet, or similar utility service,
87 extended upon or provided to state property or facilities; to accommodate rights of access,
88 ingress and egress on or to any state property or facilities; or to facilitate the construction,
89 location, relocation, or use of any common elements of condominium property if the state is a
90 unit owner within the condominium development. The governor, with the approval of the board
91 of public buildings, may, upon the request of any state department, agency, board or commission
92 not otherwise being empowered to make its own transfer or conveyance of any land belonging
93 to the state of Missouri which is under the control and custody of such department, agency, board
94 or commission, grant or convey without further legislative action, for such consideration as may

95 be agreed upon, easements across, over, upon or under any such state land to any political
96 subdivision of the state; a rural electric cooperative as defined in chapter 394; a public utility,
97 except a railroad, as defined in chapter 386; or to accommodate utility service, including
98 electrical, gas, steam, water, sewer, telephone, internet, or similar utility service, extended upon
99 or provided to state property or facilities; to accommodate rights of access, ingress and egress
100 on or to state property or facilities; or to facilitate the construction, location, relocation, or use
101 of any common elements of condominium property if the state is a unit owner within the
102 condominium development. The easement shall be for the purpose of promoting the general
103 health, welfare and safety of the public and shall include the right of access, ingress or egress for
104 the purpose of constructing, maintaining or removing any street, roadway, sidewalk, public
105 right-of-way or thoroughfare, pipeline, power line, gas line, water or steam line, telephone line,
106 internet cable, sewer line, or other similar installation or any equipment or appurtenances
107 necessary to the operation thereof; except that, a railroad as defined in chapter 386 shall not be
108 included in the provisions of this subsection unless such conveyance or transfer is first
109 authorized by an act of the general assembly. The easement shall be for such consideration as
110 may be agreed upon by the parties and approved by the board of public buildings. The attorney
111 general shall approve the form of the instrument of conveyance. The commissioner of
112 administration shall prepare management plans for such properties in the manner set out in
113 subsection 7 of this section.

114 10. The commissioner of administration shall administer a revolving “Administrative
115 Trust Fund” which shall be established by the state treasurer which shall be funded annually by
116 appropriation and which shall contain moneys transferred or paid to the office of administration
117 in return for goods and services provided by the office of administration to any governmental
118 entity or to the public. The state treasurer shall be the custodian of the fund, and shall approve
119 disbursements from the fund for the purchase of goods or services at the request of the
120 commissioner of administration or the commissioner’s designee. The provisions of section
121 33.080 notwithstanding, moneys in the fund shall not lapse, unless and then only to the extent
122 to which the unencumbered balance at the close of any fiscal year exceeds one-eighth of the total
123 amount appropriated, paid, or transferred to the fund during such fiscal year, and upon approval
124 of the oversight division of the joint committee on legislative research. The commissioner shall
125 prepare an annual report of all receipts and expenditures from the fund.

126 11. All the powers, duties and functions of the department of community affairs relating
127 to statewide planning are transferred by type I transfer to the office of administration.

128 12. The titles which are vested in the governor by or pursuant to this section to real
129 property assigned to any of the educational institutions referred to in section 174.020 on June 15,
130 1983, are hereby transferred to and vested in the board of regents of the respective educational

131 institutions, and the titles to real property and other interests therein hereafter acquired by or for
132 the use of any such educational institution, notwithstanding provisions of this section, shall vest
133 in the board of regents of the educational institution. The board of regents may not convey or
134 otherwise transfer the title to or other interest in such real property unless the conveyance or
135 transfer is first authorized by an act of the general assembly, except as provided in section
136 174.042, and except that the board of regents may grant easements over, in and under such real
137 property without further legislative action.

138 13. Notwithstanding any provision of subsection 12 of this section to the contrary, the
139 board of governors of Missouri Western State University, University of Central Missouri,
140 Missouri State University, or Missouri Southern State University, or the board of regents of
141 Southeast Missouri State University, Northwest Missouri State University, or Harris-Stowe State
142 University, or the board of curators of Lincoln University may convey or otherwise transfer for
143 fair market value, except in fee simple, the title to or other interest in such real property without
144 authorization by an act of the general assembly.

145 14. All county sports complex authorities, and any sports complex authority located in
146 a city not within a county, in existence on August 13, 1986, and organized under the provisions
147 of sections 64.920 to 64.950, are assigned to the office of administration, but such authorities
148 shall not be subject to the provisions of subdivision (4) of subsection 6 of section 1 of the
149 Omnibus State Reorganization Act of 1974, Appendix B, RSMo, as amended.

150 15. All powers, duties, and functions vested in the administrative hearing commission,
151 sections 621.015 to 621.205 and others, are transferred to the office of administration by a type
152 III transfer.

37.010. 1. The governor, by and with the advice and consent of the senate, shall appoint
2 a commissioner of administration, who shall head the "Office of Administration" which is hereby
3 created. The commissioner of administration shall receive a salary as provided by law and shall
4 also receive his or her actual and necessary expenses incurred in the discharge of his or her
5 official duties. Before taking office, the commissioner of administration shall take and subscribe
6 an oath or affirmation to support the Constitution of the United States and of this state, and to
7 demean himself or herself faithfully in office. The commissioner shall also deposit with the
8 governor a bond, with sureties to be approved by the governor, in the amount to be determined
9 by the governor payable to the state of Missouri, conditioned on the faithful performance of the
10 duties of his or her office. The premium of this bond shall be paid out of the appropriation for
11 the office of the governor.

12 2. The governor shall appoint the commissioner of administration with the advice and
13 consent of the senate. The commissioner shall be at least thirty years of age and must have been
14 a resident and qualified voter of this state for the five years next preceding his **or her**

15 appointment. He or she must be qualified by training and experience to assume the managerial
16 and administrative functions of the office of commissioner of administration.

17 3. The commissioner of administration shall, by virtue of his or her office, without
18 additional compensation, head the division of budget, the division of purchasing, the division
19 of facilities management, design and construction, and the information technology services
20 division. Whenever provisions of the constitution grant powers, impose duties or make other
21 reference to the comptroller, they shall be construed as referring to the commissioner of
22 administration.

23 4. The commissioner of administration shall provide the governor with such assistance
24 in the supervision of the executive branch of state government as the governor requires and shall
25 perform such other duties as are assigned to him or her by the governor or by law. The
26 commissioner of administration shall work with other departments of the executive branch of
27 state government to promote economy, efficiency and improved service in the transaction of state
28 business. The commissioner of administration, with the approval of the governor, shall organize
29 the work of the office of administration in such manner as to obtain maximum effectiveness of
30 the personnel of the office. He **or she** may consolidate, abolish or reassign duties of positions
31 or divisions combined within the office of administration, except for the division of personnel.
32 He or she may delegate specific duties to subordinates. These subordinates shall take the same
33 oath as the commissioner and shall be covered by the bond of the director or by separate bond
34 as required by the governor.

35 5. The personnel division~~;~~ **and** personnel director ~~[and personnel advisory board as~~
36 ~~provided in chapter 36]~~ shall be in the office of administration. The personnel director and
37 employees of the personnel division shall perform such duties as directed by the commissioner
38 of administration for personnel work in agencies and departments of state government ~~[not~~
39 ~~covered by the merit system law]~~ to upgrade state employment and to improve the uniform
40 quality of state employment.

41 6. The commissioner of administration shall prepare a complete inventory of all real
42 estate, buildings and facilities of state government and an analysis of their utilization. Each year
43 he or she shall formulate and submit to the governor a long-range plan for the ensuing five years
44 for the repair, construction and rehabilitation of all state properties. The plan shall set forth the
45 projects proposed to be authorized in each of the five years with each project ranked in the order
46 of urgency of need from the standpoint of the state as a whole and shall be upgraded each year.
47 Project proposals shall be accompanied by workload and utilization information explaining the
48 need and purpose of each. Departments shall submit recommendations for capital improvement
49 projects and other information in such form and at such times as required by the commissioner
50 of administration to enable him or her to prepare the long-range plan. The commissioner of

51 administration shall prepare the long-range plan together with analysis of financing available and
52 suggestions for further financing for approval of the governor who shall submit it to the general
53 assembly. The long-range plan shall include credible estimates for operating purposes as well
54 as capital outlay and shall include program data to justify need for the expenditures included.
55 The long-range plan shall be extended, revised and resubmitted in the same manner to
56 accompany each executive budget. The appropriate recommendations for the period for which
57 appropriations are to be made shall be incorporated in the executive budget for that period
58 together with recommendations for financing. Each revised long-range plan shall provide a
59 report on progress in the repair, construction and rehabilitation of state properties and of the
60 operating purposes program for the preceding fiscal period in terms of expenditures and meeting
61 program goals.

62 7. ~~[All employees of the office of administration, except the commissioner and not more~~
63 ~~than three other executive positions designated by the governor in an executive order, shall be~~
64 ~~subject to the provisions of chapter 36.]~~ The commissioner shall appoint all employees of the
65 office of administration and may discharge the employees ~~[after proper hearing, provided that~~
66 ~~the employment and discharge conform to the practices governing selection and discharge of~~
67 ~~employees in accordance with the provisions of chapter 36]~~ **in accordance with the rules**
68 **promulgated under section 36.010.**

69 8. The office of the commissioner of administration shall be in Jefferson City.

70 9. In case of death, resignation, removal from office or vacancy from any cause in the
71 office of commissioner of administration, the governor shall take charge of the office and
72 superintend the business thereof until a successor is appointed, commissioned and qualified.

37.735. 1. The "Governor's Council on Disability" is hereby assigned to the office of
2 administration.

3 2. The council shall consist of a chairperson, twenty members, and an executive director.

4 3. The chairperson shall be appointed by the governor with the advice and consent of the
5 senate. The members of the council shall be appointed by the governor. Recruitment and
6 appointment of members to the council shall provide for representation of various ethnic, age,
7 gender, and physical and mental disability groups.

8 4. The funds necessary for the executive director and such other personnel as necessary
9 shall be appropriated through the office of administration. The executive director shall serve
10 under the supervision of the committee chairman. ~~[The executive director shall be exempted~~
11 ~~from the state merit system.]~~

12 5. All members shall be appointed for four-year terms. Vacancies occurring in the
13 membership of the council for any reason shall be filled by appointment by the governor for the
14 unexpired term. Upon expiration of their terms, members of the council shall continue to hold

15 office until the appointment and qualification of their successors. No person shall be appointed
16 for more than two consecutive terms, except that a person appointed to fill a vacancy may serve
17 for two additional successive terms. The governor may remove a member for cause.

18 6. Members of the council shall be chosen to meet the following criteria:

19 (1) The majority of the council shall be comprised of people with disabilities,
20 representing the various disability groups. The remaining positions shall be filled by family
21 members of people with disabilities, persons who represent other disability-related groups, and
22 other advocates. A person considered to have a disability shall meet the federal definition of
23 disability as defined by P.L. 101-336;

24 (2) The council shall include at least one member from each congressional district;

25 (3) Members of the council shall be knowledgeable about disability-related issues and
26 have demonstrated a commitment to full participation of people with disabilities in all aspects
27 of community life.

28 7. The chairperson of the council shall serve without compensation but shall be
29 reimbursed for actual and necessary travel and other expenses incurred in the performance of the
30 duties as chairperson of the council on disability. The members of the council shall serve
31 without compensation but may be reimbursed for their actual and necessary expenses incurred
32 in attending all meetings provided for by sections 37.735 to 37.745.

33 8. The council shall meet at least once each calendar quarter to conduct its business. The
34 executive director shall give notice to each member of the time and place of each meeting of the
35 council at least ten days before the scheduled date of the meeting, and notice of any special
36 meeting shall state the specific matters to be considered in the special meeting which is not a
37 regular quarterly meeting.

38 9. The chairperson, with the advice and consent of the council, shall appoint an executive
39 director who shall serve as a nonvoting member and executive officer of the council. The
40 executive director shall serve under the supervision of the chairperson of the council. The
41 executive director shall be a person who is knowledgeable about disability-related issues and has
42 demonstrated a commitment to full participation of people with disabilities in all aspects of
43 community life.

44 10. The director of each state department shall designate at least one employee who shall
45 act as a liaison with the council.

42.012. 1. The commission shall have as its chief administrative officer an executive
2 director, who shall be in charge of the staff of the commission and responsible for execution of
3 the duties vested in the commission pursuant to this chapter. The executive director shall have
4 served in military forces of the United States and have been honorably discharged therefrom.

5 The executive director shall be appointed by and serve at the pleasure of the commission, and
6 the commission shall fix his or her compensation as provided by law.

7 2. In carrying out the purposes and duties of the commission pursuant to this chapter, the
8 executive director shall:

9 (1) ~~[Exercise for the commission the powers and duties of an appointing authority~~
10 ~~pursuant to chapter 36 to] Employ, with the consent of the commission, a staff composed of such~~
11 professional, technical and clerical personnel as necessary to carry out the purposes of the
12 commission and set compensation for such staff within the appropriations made for that purpose;
13 provided, that no person shall be employed as an administrative assistant or as a veterans' service
14 officer who has not served in the military forces of the United States and been honorably
15 discharged therefrom~~]. All members of the staff of the commission, except the executive~~
16 ~~director and his or her deputy, shall be employed pursuant to the provisions of the state merit~~
17 ~~system law, chapter 36];~~

18 (2) Accept appointment as the attorney in fact by proper written power of attorney
19 executed by veterans or their dependents or legal representatives as necessary to accomplish the
20 purposes of sections 42.002 to 42.135 and section 143.1001;

21 (3) Accept, in carrying out the purposes of sections 42.002 to 42.135 and section
22 143.1001, and for no other purpose, grants of services, personnel or money from any federal
23 agency or any political subdivision of the state desiring to participate in the work of the executive
24 director;

25 (4) Accept and distribute any federal or state funds which are available for veterans of
26 the military forces of the United States, and, if a bond is required as a condition to securing such
27 funds, to execute the bond required;

28 (5) Have access to all pertinent records of state agencies, not designated as confidential
29 records pursuant to any law of this state, and political subdivisions of this state, that may be of
30 assistance in accomplishing the purposes of sections 42.002 to 42.135 and section 143.1001.
31 Upon the written request of the executive director, the person in charge of any such record shall
32 furnish the executive director, without charge, authenticated or certified copies of the records
33 requested;

34 (6) Have control of all veterans' cemeteries that are owned, purchased, leased, or
35 provided by the state solely for the burial of veterans and eligible dependents as defined by the
36 Department of Veterans Affairs or a successor federal agency. In the name of the state of
37 Missouri, the executive director may acquire by purchase and may receive by donation or
38 dedication any property which may be used for veterans' cemetery purposes. The executive
39 director shall accept and receive any federal or state funds which are available for veterans'
40 cemetery purposes.

41 3. The executive director shall have a seal of office and may administer oaths and
42 acknowledge powers of attorney in favor of himself or herself, or any veterans' organization
43 chartered by act of Congress of the United States.

105.055. 1. No supervisor or appointing authority of any state agency shall prohibit any
2 employee of the agency from discussing the operations of the agency, either specifically or
3 generally, with any member of the legislature, state auditor, attorney general, or any state official
4 or body charged with investigating such alleged misconduct.

5 2. No supervisor or appointing authority of any state agency shall:

6 (1) Prohibit a state employee from or take any disciplinary action whatsoever against a
7 state employee for the disclosure of any alleged prohibited activity under investigation or any
8 related activity, or for the disclosure of information which the employee reasonably believes
9 evidences:

10 (a) A violation of any law, rule or regulation; or

11 (b) Mismanagement, a gross waste of funds or abuse of authority, or a substantial and
12 specific danger to public health or safety, if the disclosure is not specifically prohibited by law;
13 or

14 (2) Require any such employee to give notice to the supervisor or appointing authority
15 prior to making any such report.

16 3. This section shall not be construed as:

17 (1) Prohibiting a supervisor or appointing authority from requiring that an employee
18 inform the supervisor or appointing authority as to legislative requests for information to the
19 agency or the substance of testimony made, or to be made, by the employee to legislators on
20 behalf of the employee to legislators on behalf of the agency;

21 (2) Permitting an employee to leave the employee's assigned work areas during normal
22 work hours without following applicable rules and regulations and policies pertaining to leaves,
23 unless the employee is requested by a legislator or legislative committee to appear before a
24 legislative committee;

25 (3) Authorizing an employee to represent the employee's personal opinions as the
26 opinions of a state agency; or

27 (4) Restricting or precluding disciplinary action taken against a state employee if: the
28 employee knew that the information was false; the information is closed or is confidential under
29 the provisions of the open meetings law or any other law; or the disclosure relates to the
30 employee's own violations, mismanagement, gross waste of funds, abuse of authority or
31 endangerment of the public health or safety.

32 4. As used in this section, "disciplinary action" means any dismissal, demotion, transfer,
33 reassignment, suspension, reprimand, warning of possible dismissal or withholding of work,

34 whether or not the withholding of work has affected or will affect the employee's compensation.

35 5. ~~[Any employee may file an administrative appeal whenever the employee alleges that~~
36 ~~disciplinary action was taken against the employee in violation of this section. The appeal shall~~
37 ~~be filed with the administrative hearing commission; provided that the appeal shall be filed with~~
38 ~~the appropriate agency review board or body of nonmerit agency employers which have~~
39 ~~established appeal procedures substantially similar to those provided for merit employees in~~
40 ~~subsection 5 of section 36.390. The appeal shall be filed within thirty days of the alleged~~
41 ~~disciplinary action. Procedures governing the appeal shall be in accordance with chapter 536.~~
42 ~~If the commission or appropriate review body finds that disciplinary action taken was~~
43 ~~unreasonable, the commission or appropriate review body shall modify or reverse the agency's~~
44 ~~action and order such relief for the employee as the commission considers appropriate. If the~~
45 ~~commission finds a violation of this section, it may review and recommend to the appointing~~
46 ~~authority that the violator be suspended on leave without pay for not more than thirty days or,~~
47 ~~in cases of willful or repeated violations, may review and recommend to the appointing authority~~
48 ~~that the violator forfeit the violator's position as a state officer or employee and disqualify the~~
49 ~~violator for appointment to or employment as a state officer or employee for a period of not more~~
50 ~~than two years. The decision of the commission or appropriate review body in such cases may~~
51 ~~be appealed by any party pursuant to law.~~

52 ~~———6.] Each state agency shall prominently post a copy of this section in locations where it~~
53 ~~can reasonably be expected to come to the attention of all employees of the agency.~~

54 ~~[7.] 6. (1) [In addition to the remedies in subsection 6 of this section,] A person who~~
55 ~~alleges a violation of this section may bring a civil action for damages within ninety days after~~
56 ~~the occurrence of the alleged violation.~~

57 (2) A civil action commenced pursuant to this subsection may be brought in the circuit
58 court for the county where the alleged violation occurred, the county where the complainant
59 resides, or the county where the person against whom the civil complaint is filed resides.

60 (3) An employee must show by clear and convincing evidence that he or she or a person
61 acting on his or her behalf has reported or was about to report, verbally or in writing, a prohibited
62 activity or a suspected prohibited activity.

63 (4) A court, in rendering a judgment in an action brought pursuant to this section, shall
64 order, as the court considers appropriate, actual damages, and may also award the complainant
65 all or a portion of the costs of litigation, including reasonable attorney fees.

105.950. 1. Until June 30, 2000, the commissioner of administration and the directors
2 of the departments of revenue, social services, agriculture, economic development, corrections,
3 labor and industrial relations, natural resources, and public safety shall continue to receive the

4 salaries they received on August 27, 1999, subject to annual adjustments as provided in section
5 105.005.

6 2. On and after July 1, 2000, the salary of the directors of the above departments shall
7 be set by the governor within the limits of the salary ranges established pursuant to this section
8 and the appropriation for that purpose. Salary ranges for department directors and members of
9 the board of probation and parole shall be set by the ~~[personnel advisory board]~~ **director of the**
10 **division of personnel of the office of administration** after considering the results of a study
11 periodically performed or administered by the office of administration. Such salary ranges shall
12 be published yearly in an appendix to the revised statutes of Missouri.

13 3. Each of the above salaries shall be increased by any salary adjustment provided
14 pursuant to the provisions of section 105.005.

105.1105. Any public employee who is convicted, pleads guilty, or pleads nolo
2 contendere for the first time, under the laws of this state, the United States or any other state, of
3 any criminal offense involving the use of a controlled substance, marijuana or other dangerous
4 drug as such substances are defined in chapter 195 shall be required to show evidence of
5 completion of a drug abuse treatment and education program certified by the state. If the public
6 employee refuses to participate in a drug abuse treatment program or if he **or she** fails to
7 complete such program within six months of his **or her** public employer becoming aware of the
8 conviction, the public employee shall be suspended from his **or her** public employment until
9 such time as he **or she** shows evidence of completion of or shows evidence of enrollment and
10 continuing progress in a certified drug abuse treatment and education program.
11 ~~[Notwithstanding the provisions of section 36.370,]~~ Such suspension shall be for no more than
12 three months, after which time, if the public employee has failed to complete or has failed to
13 show evidence of continuing progress in a drug abuse treatment and education program, he **or**
14 **she** shall be dismissed from his **or her** public employment. After all requirements of the
15 suspension period have been fulfilled by the public employee, he **or she** shall be returned to his
16 **or her** former position with the public employer or, if such position is no longer available, he
17 **or she** shall be placed in a position of comparable status as his **or her** former position prior to
18 suspension.

105.1110. ~~[Any public employee who is suspended or dismissed under the provisions~~
2 ~~of section 105.1105 or 105.1108 shall have the right to appeal as provided under section 36.390~~
3 ~~or under any appeal rights established by a public employer not subject to the provisions of~~
4 ~~chapter 36 that are substantially similar to the rights established under section 36.390.]~~
5 Personnel records of any public employee relating to suspension or termination for reasons
6 specified in section 105.1105 or 105.1108 shall be closed records.

105.1114. Administrative procedures for the implementation of sections 105.1100 to
2 105.1116 shall be promulgated by the ~~[state personnel advisory board for those employees~~
3 ~~classified under the state personnel law and by other public employers for those employees under~~
4 ~~their management and control]~~ **governor in accordance with section 36.010.** ~~[No rule or~~
5 ~~portion of a rule promulgated under the authority of sections 105.1100 to 105.1116 shall become~~
6 ~~effective unless it has been promulgated pursuant to the provisions of section 536.024.]~~

161.925. The council shall advocate for assistive technology policies, regulations and
2 programs, and shall establish a consumer-responsive, comprehensive assistive technology service
3 delivery system. The council shall:

- 4 (1) Promote awareness of the needs of individuals with disabilities for assistive
5 technology devices and services and the efficacy of providing such devices and services to allow
6 persons with disabilities to be productive and independent;
- 7 (2) Gain an understanding of current policies, practices, and procedures that facilitate
8 or impede the availability or provision of assistive technology and recommend methods to
9 streamline such policies;
- 10 (3) Research and study data from the major public and private providers of assistive
11 technology regarding numbers and types of devices and services delivered;
- 12 (4) Establish interagency coordination mechanisms among state agencies and public and
13 private entities that provide assistive technology devices and services in an effort to eliminate
14 gaps and reduce duplication of such services to individuals with disabilities;
- 15 (5) Foster the capacity of public and private entities to provide assistive technology
16 devices and services so that individuals with disabilities of all ages will, to the extent
17 appropriate, be able to secure and maintain possession of assistive technology as needed to
18 function independently and productively;
- 19 (6) Recommend and implement specific methods and programs to increase availability
20 of and funding for assistive technology devices and assistive technology services for individuals
21 with disabilities;
- 22 (7) Employ staff necessary to implement assistive technology services and programs
23 assigned to the council~~], with all employees exempt from the state merit system under chapter~~
24 ~~36];~~
- 25 (8) Enter into grants or contracts with public or private agencies, schools, or qualified
26 individuals or organizations to deliver federally required or otherwise necessary assistive
27 technology programs and services, including but not limited to assistive device demonstration
28 programs, device recycling programs, device loan programs, financial loan programs, and
29 assistive technology assessments, installation, and usage training for individuals with disabilities,
30 with or without utilizing the procurement procedures of the office of administration;

31 (9) Administer the assistive technology trust fund created in section 161.930, including
32 the formation of a not-for-profit corporation that qualifies as a Section 501(c)(3) organization
33 under the Internal Revenue Code of 1986, as amended;

34 (10) Accept, administer, and disburse federal moneys as the lead agency for the federal
35 Assistive Technology Act of 2004, P.L. 108-364, and any amendments or successors thereto, as
36 well as moneys from the assistive technology trust fund created in section 161.930, and any other
37 moneys appropriated, granted, or given for the purpose of implementing assistive technology
38 programs and services; and

39 (11) Report annually by January first to the governor and the general assembly on
40 council activities and the results of its studies, programs, services, and recommendations to
41 increase access to assistive technology.

181.043. The secretary of state shall appoint a state librarian who shall administer the
2 affairs of the Missouri state library under the rules and regulations of the secretary of state and
3 who shall serve at the pleasure of the secretary of state. The state librarian shall be a graduate
4 of an accredited college or university, and be graduated from an accredited library school, and
5 shall have library experience. The state librarian shall appoint the personnel in connection with
6 the various activities of the state library, subject to the approval of the secretary of state. ~~[The~~
7 ~~provisions for appeals provided in section 36.390 for dismissals of regular merit employees shall~~
8 ~~apply to the employees of the state library, that all staffs presently employed must be transferred~~
9 ~~as regular state employees.]~~

191.907. ~~[1-]~~ Any person who is the original source of the information used by the
2 attorney general to bring an action under subsection 14 of section 191.905 shall receive ten
3 percent of any recovery by the attorney general. As used in this section, "original source of
4 information" means information no part of which has been previously disclosed to or known by
5 the government or public. If the court finds that the person who was the original source of the
6 information used by the attorney general to bring an action under subsection 14 of section
7 191.905 planned, initiated, or participated in the conduct upon which the action is brought, such
8 person shall not be entitled to any percentage of the recovery obtained in such action.

9 ~~[2- Any person who is the original source of information about the willful violation by~~
10 ~~any person of section 36.460 shall receive ten percent of the amount of compensation that would~~
11 ~~have been paid the employee forfeiting his or her position under section 36.460 if the employee~~
12 ~~was found to have acted fraudulently in connection with the state medical assistance program.]~~

207.085. ~~[1-]~~ Any employee of the children's division, including supervisory personnel
2 and private contractors with the division, who is involved with child protective services and
3 purposely, knowingly, and willfully violates a stated or written policy of the division, any rule
4 promulgated by the division, or any state law directly related to the child abuse and neglect

5 activities of the division shall be dismissed if the violation directly results in serious physical
6 injury or death~~], subject to the provisions of subsection 2 of this section].~~ The provisions of this
7 section shall apply to ~~[merit system employees of the division, as well as]~~ all ~~[other]~~ employees
8 of the division and private contractors with the division, and upon a showing of a violation, such
9 employees shall be dismissed ~~[for cause, subject to the provisions of subsection 2 of this section,~~
10 ~~and shall have the right of appeal pursuant to sections 36.380 and 36.390].~~ For purposes of this
11 section, a "private contractor with the division" means any private entity or community action
12 agency with the appropriate and relevant training and expertise in delivering services to children
13 and their families as determined by the children's division, and capable of providing direct
14 services and other family services for children in the custody of the children's division or any
15 such entities or agencies that are receiving state moneys for such services.

16 ~~[2. The provisions of sections 660.019 to 660.021 shall apply to this section. If an~~
17 ~~employee of the division or a private contractor with the division is responsible for caseload~~
18 ~~assignments in excess of those required to attain accreditation by the Council for Accreditation~~
19 ~~for Families and Children's Services, and the employee purposely, knowingly, and willfully~~
20 ~~violates a stated or written policy of the division, any rule promulgated by the division, or any~~
21 ~~state law directly related to the child abuse and neglect activities of the division and the violation~~
22 ~~directly results in serious physical injury or death, the employee's good faith efforts to follow the~~
23 ~~stated or written policies of the division, the rules promulgated by the division, or the state laws~~
24 ~~directly related to the child abuse and neglect activities of the division shall be a mitigating factor~~
25 ~~in determining whether an employee of the division or a private contractor with the division is~~
26 ~~dismissed pursuant to subsection 1 of this section.]~~

208.201. 1. The "MO HealthNet Division" is hereby established within the department
2 of social services. The director of the MO HealthNet division shall be appointed by the director
3 of the department. Where the title "division of medical services" is found in the Missouri
4 Revised statutes it shall mean "MO HealthNet division".

5 2. The MO HealthNet division is an integral part of the department of social services and
6 shall have and exercise all the powers and duties necessary to carry out fully and effectively the
7 purposes assigned to it by law and shall be the state agency to administer payments to providers
8 under the MO HealthNet program and to carry out such other functions, duties, and
9 responsibilities as the MO HealthNet division may be transferred by law, or by a departmental
10 reorganizational plan pursuant to law.

11 3. All powers, duties and functions of the family support division relative to the
12 development, administration and enforcement of the medical assistance programs of this state
13 are transferred by type I transfer as defined in the Omnibus State Reorganization Act of 1974 to

14 the MO HealthNet division. The family support division shall retain the authority to determine
15 and regulate the eligibility of needy persons for participation in the MO HealthNet program.

16 4. All state regulations adopted under the authority of the division of medical services
17 shall remain in effect unless withdrawn or amended by authority of the MO HealthNet division.

18 5. The director of the MO HealthNet division shall ~~[exercise the powers and duties of~~
19 ~~an appointing authority under chapter 36 to]~~ employ such administrative, technical, and other
20 personnel as may be necessary, and may designate subdivisions as needed for the performance
21 of the duties and responsibilities of the division.

22 6. In addition to the powers, duties and functions vested in the MO HealthNet division
23 by other provisions of this chapter or by other laws of this state, the MO HealthNet division shall
24 have the power:

25 (1) To sue and be sued;

26 (2) To adopt, amend and rescind such rules and regulations necessary or desirable to
27 perform its duties under state law and not inconsistent with the constitution or laws of this state;

28 (3) To make and enter into contracts and carry out the duties imposed upon it by this or
29 any other law;

30 (4) To administer, disburse, accept, dispose of and account for funds, equipment,
31 supplies or services, and any kind of property given, granted, loaned, advanced to or appropriated
32 by the state of Missouri or the federal government for any lawful purpose;

33 (5) To cooperate with the United States government in matters of mutual concern
34 pertaining to any duties of the MO HealthNet division or the department of social services,
35 including the adoption of such methods of administration as are found by the United States
36 government to be necessary for the efficient operation of state medical assistance plans required
37 by federal law, and the modification or amendment of a state medical assistance plan where
38 required by federal law;

39 (6) To make reports in such form and containing such information as the United States
40 government may, from time to time, require and comply with such provisions as the United
41 States government may, from time to time, find necessary to assure the correctness and
42 verification of such reports;

43 (7) To create and appoint, when and if it may deem necessary, advisory committees not
44 otherwise provided in any other provision of the law to provide professional or technical
45 consultation with respect to MO HealthNet program administration. Each advisory committee
46 shall consult with and advise the MO HealthNet division with respect to policies incident to the
47 administration of the particular function germane to their respective field of competence;

48 (8) To define, establish and implement the policies and procedures necessary to
49 administer payments to providers under the MO HealthNet program;

50 (9) To conduct utilization reviews to determine the appropriateness of services and
51 reimbursement amounts to providers participating in the MO HealthNet program;

52 (10) To establish or cooperate in research or demonstration projects relative to the
53 medical assistance programs, including those projects which will aid in effective coordination
54 or planning between private and public medical assistance programs and providers, or which will
55 help improve the administration and effectiveness of medical assistance programs.

210.170. 1. There is hereby created within the office of administration of the state of
2 Missouri the "Children's Trust Fund Board", which shall be composed of twenty-one members
3 as follows:

4 (1) Twelve public members to be appointed by the governor by and with the advice and
5 consent of the senate. As a group, the public members appointed pursuant to this subdivision
6 shall demonstrate knowledge in the area of prevention programs, shall be representative of the
7 demographic composition of this state, and, to the extent practicable, shall be representative of
8 all of the following categories:

- 9 (a) Organized labor;
- 10 (b) The business community;
- 11 (c) The educational community;
- 12 (d) The religious community;
- 13 (e) The legal community;
- 14 (f) Professional providers of prevention services to families and children;
- 15 (g) Volunteers in prevention services;
- 16 (h) Social services;
- 17 (i) Health care services; and
- 18 (j) Mental health services;

19 (2) A physician licensed pursuant to chapter 334;

20 (3) Two members of the Missouri house of representatives, who shall be appointed by
21 the speaker of the house of representatives and shall be members of two different political
22 parties;

23 (4) Two members of the Missouri senate, who shall be appointed by the president pro
24 tem of the senate and who shall be members of two different political parties; and

25 (5) Four members chosen and appointed by the governor.

26 2. All members of the board appointed by the speaker of the house or the president pro
27 tem of the senate shall serve until their term in the house or senate during which they were
28 appointed to the board expires. All public members of the board shall serve for terms of three
29 years; except, that of the public members first appointed, four shall serve for terms of three years,
30 four shall serve for terms of two years, and three shall serve for terms of one year. No public

31 members may serve more than two consecutive terms, regardless of whether such terms were full
32 or partial terms. Each member shall serve until his **or her** successor is appointed. All vacancies
33 on the board shall be filled for the balance of the unexpired term in the same manner in which
34 the board membership which is vacant was originally filled.

35 3. Any public member of the board may be removed by the governor for misconduct,
36 incompetency, or neglect of duty after first being given the opportunity to be heard in his or her
37 own behalf.

38 4. The board may employ an executive director who shall be charged with carrying out
39 the duties and responsibilities assigned to him or her by the board. The executive director may
40 obtain all necessary office space, facilities, and equipment, and may hire and set the
41 compensation of such staff as is approved by the board and within the limitations of
42 appropriations for the purpose. ~~[All staff members, except the executive director, shall be~~
43 ~~employed pursuant to chapter 36.]~~

44 5. Each member of the board may be reimbursed for all actual and necessary expenses
45 incurred by the member in the performance of his or her official duties. All reimbursements
46 made pursuant to this subsection shall be made from funds in the children's trust fund
47 appropriated for that purpose.

48 6. All business transactions of the board shall be conducted in public meetings in
49 accordance with sections 610.010 to 610.030.

50 7. The board may accept federal funds for the purposes of sections 210.170 to 210.173
51 and section 143.1000 as well as gifts and donations from individuals, private organizations, and
52 foundations. The acceptance and use of federal funds shall not commit any state funds nor place
53 any obligation upon the general assembly to continue the programs or activities for which the
54 federal funds are made available. All funds received in the manner described in this subsection
55 shall be transmitted to the state treasurer for deposit in the state treasury to the credit of the
56 children's trust fund.

57 8. The board shall elect a chairperson from among the public members, who shall serve
58 for a term of two years. The board may elect such other officers and establish such committees
59 as it deems appropriate.

60 9. The board shall exercise its powers and duties independently of the office of
61 administration except that budgetary, procurement, accounting, and other related management
62 functions shall be performed by the office of administration.

217.030. The director shall appoint the directors of the divisions of the department,
2 except the chairman of the board of probation and parole who shall be appointed by the governor
3 and who shall serve as the director of the division of probation and parole. Division directors
4 shall serve at the pleasure of the director, except the chairman of the board of probation and

5 parole who shall serve in the capacity of chairman at the pleasure of the governor. The director
6 of the department shall ~~[be the appointing authority under chapter 36 to]~~ employ such
7 administrative, technical and other personnel who may be assigned to the department generally
8 rather than to any of the department divisions or facilities and whose employment is necessary
9 for the performance of the powers and duties of the department.

217.160. 1. Any division director, subject to the supervision of the director, shall
2 ~~[exercise for the division the powers and duties of an appointing authority under chapter 36 to]~~
3 employ personnel~~;~~ for the performance of the duties and responsibilities of the division.

4 2. The division director shall be a person of recognized character and integrity and shall
5 have education, training and experience appropriate to the responsibilities of the division of
6 which he **or she** is the director. He **or she** shall be a citizen of the United States but need not be
7 a citizen of the state of Missouri at the time of his **or her** appointment.

8 3. The director shall be a full-time employee of the division and shall hold no other
9 regular, compensated position while serving as a director of the division.

217.165. The department director shall ~~[in accordance with chapter 36]~~ appoint for each
2 correctional center a chief administrative officer.

217.665. 1. Beginning August 28, 1996, the board of probation and parole shall consist
2 of seven members appointed by the governor by and with the advice and consent of the senate.

3 2. Beginning August 28, 1996, members of the board shall be persons of recognized
4 integrity and honor, known to possess education and ability in decision making through career
5 experience and other qualifications for the successful performance of their official duties. Not
6 more than four members of the board shall be of the same political party.

7 3. At the expiration of the term of each member and of each succeeding member, the
8 governor shall appoint a successor who shall hold office for a term of six years and until his **or**
9 **her** successor has been appointed and qualified. Members may be appointed to succeed
10 themselves.

11 4. Vacancies occurring in the office of any member shall be filled by appointment by the
12 governor for the unexpired term.

13 5. The governor shall designate one member of the board as chairman and one member
14 as vice chairman. The chairman shall be the director of the division and shall have charge of the
15 division's operations, funds and expenditures. In the event of the chairman's removal, death,
16 resignation, or inability to serve, the vice chairman shall act as chairman upon written order of
17 the governor or chairman.

18 6. Members of the board shall devote full time to the duties of their office and before
19 taking office shall subscribe to an oath or affirmation to support the Constitution of the United

20 States and the Constitution of the State of Missouri. The oath shall be signed in the office of the
21 secretary of state.

22 7. The annual compensation for each member of the board whose term commenced
23 before August 28, 1999, shall be forty-five thousand dollars plus any salary adjustment, including
24 prior salary adjustments, provided pursuant to section 105.005. Salaries for board members
25 whose terms commence after August 27, 1999, shall be set as provided in section 105.950;
26 provided, however, that the compensation of a board member shall not be increased during the
27 member's term of office, except as provided in section 105.005. In addition to compensation
28 provided by law, the members shall be entitled to reimbursement for necessary travel and other
29 expenses incurred pursuant to section 33.090.

30 8. Any person who served as a member of the board of probation and parole prior to July
31 1, 2000, shall be made, constituted, appointed and employed by the board of trustees of the state
32 employees' retirement system as a special consultant on the problems of retirement, aging and
33 other state matters. As compensation for such services, such consultant shall not be denied use
34 of any unused sick leave, or the ability to receive credit for unused sick leave pursuant to chapter
35 104, provided such sick leave was maintained by the board of probation and parole in the regular
36 course of business prior to July 1, 2000, but only to the extent of such sick leave records are
37 consistent with the rules promulgated ~~[pursuant to section 36.350]~~ **on sick leave**. Nothing in this
38 section shall authorize the use of any other form of leave that may have been maintained by the
39 board prior to July 1, 2000.

219.036. 1. The director, subject to the supervision of the department director, shall
2 employ all employees~~[, as provided in chapter 36,]~~ and is authorized to employ in any
3 appropriate capacity any person qualified under the provisions of sections 219.011 to 219.086
4 even though such person has previously been convicted of a crime.

5 2. The director shall set forth the duties and responsibilities of all employees of the
6 division.

7 3. The director shall prepare and update a master plan covering a period of not less than
8 five years outlining the structural, legislative, and program and facility changes necessary for
9 improvement of services to children committed to it.

10 4. The director shall also prepare an annual report which shall consist of a description
11 of progress made toward the achievement of objectives contained in the master plan; a statistical
12 analysis of juvenile delinquency in Missouri, including, but not limited to, the number and rates
13 of juvenile arrests, juvenile detentions, juvenile court referrals and court dispositions for the
14 entire state and within the jurisdiction of each circuit.

15 5. The master plan and each subsequent annual report shall be transmitted to the
16 governor, the legislature, the director of the department, the juvenile courts, and upon request,
17 to other interested persons and agencies.

18 6. All officers and employees of the state and of every county and city shall furnish to
19 the director, on an annual basis, such statistics and other information within their knowledge and
20 control as the director deems necessary or proper to be collected pursuant to the provisions of
21 sections 219.011 to 219.086.

22 7. The director shall establish written policy and procedures for the administration of the
23 division and shall promulgate necessary rules and regulations pursuant to section 219.016 and
24 chapter 536 which, together with any amendments thereto, shall be kept on file at the principal
25 office of the division, shall constitute a public record and be subject to the inspection by any
26 person at all reasonable times.

27 8. The director is hereby authorized to enter into contract with any qualified individual,
28 agency, or institution for the purchase of services required to meet the needs of children
29 committed to the division's charge, when it can be shown that the purchase of such services is
30 more economical, effective or practical than for such services to be provided directly by the
31 division. No contract shall be made under sections 219.011 to 219.086 contrary to the provisions
32 of Article I, Section 7 or Article IX, Section 8 of the Constitution of Missouri.

33 9. The director is authorized to serve as an agent of the state in entering into agreements
34 with the appropriate agency of the federal government to provide care and treatment for a child
35 found by a federal court to be delinquent and committed to the custody of the Attorney General
36 of the United States pursuant to the provisions of 18 U.S.C. 5031-5037, inclusive, as amended.
37 Such agreement shall be upon such terms and conditions and shall provide for such
38 compensation as may be mutually agreed upon between the division and the appropriate agency
39 of the federal government. Funds received as compensation under such agreement shall be
40 placed in the state treasury and shall be used, upon appropriation, by the division for carrying out
41 the purposes of sections 219.011 to 219.086.

236.405. 1. There is hereby created a dam and reservoir safety program in the
2 department of natural resources. The council shall promulgate rules, regulations, guidelines, and
3 standards relating to the determination of whether a dam or reservoir constitutes a danger to
4 public safety, life or property to be effective upon approval by the director.

5 2. The director of the department of natural resources shall employ an experienced
6 professional engineer as chief engineer and assistants to administer the activities of the dam and
7 reservoir safety program.

8 3. The chief engineer shall be selected [~~under the state merit system~~] on the basis of
9 professional experience directly related to the design and construction of dams and reservoirs.

10 4. The findings, opinions, and orders of the council and the chief engineer shall be kept
11 as permanent public records in the offices of the department of natural resources.

12 5. No rule or portion of a rule promulgated under the authority of sections 236.400 to
13 236.500 shall become effective unless it has been promulgated pursuant to the provisions of
14 section 536.024.

 286.005. 1. There is hereby created a "Department of Labor and Industrial Relations"
2 to be headed by a labor and industrial relations commission as provided by Section 49, Article
3 IV, Constitution of Missouri. All the powers, duties and functions of the industrial commission
4 are transferred by type I transfer to the labor and industrial relations commission and the
5 industrial commission is abolished. The commission shall nominate and the governor shall
6 appoint, with the advice and consent of the senate, the director of the department to be the chief
7 administrative officer of the department. Members of the industrial commission on May 2, 1974,
8 shall become members of the commission and the terms of the commission members shall be
9 the same as provided by law for the industrial commission. Individuals appointed as members
10 of the industrial commission shall serve the remainder of the term to which they were appointed
11 as members of the commission. The members of the commission shall receive an annual salary
12 of seventy-two thousand seven hundred thirty-five dollars plus any salary adjustment provided
13 pursuant to section 105.005 payable out of the state treasury. The board of rehabilitation is
14 abolished as hereinafter set out and on May 2, 1974, no compensation shall be paid to any person
15 as a member of the board of rehabilitation, other provisions of the law notwithstanding. The
16 director of the department shall appoint other division heads in the department. For the purposes
17 of subsections 6, 7, 8 and 9 of section 1 of the reorganization act of 1974, the director of the
18 department shall be construed as the head of the department of labor and industrial relations.

19 2. All powers, duties, and functions vested by law in the division of employment
20 security, chapter 288, and others, are transferred by type II transfer to the department.

21 3. All powers, duties, and functions vested by law in the division of workers'
22 compensation, chapter 287, and others, are transferred by type II transfer to the department.

23 4. All the powers, duties, and functions of the board of rehabilitation, chapter 287, and
24 others, are transferred by type I transfer to the division of workers' compensation of the
25 department and the board of rehabilitation is abolished.

26 5. All powers, duties and functions vested by law in the division of industrial inspections
27 and the division of mine inspections, chapters 286, 290, 291, 292, 293, 294 and 444, which were
28 previously transferred by type I transfer to the inspection section of the department, are
29 transferred to the division of labor standards of the department. [~~Employees of the division
30 performing duties related to the mine safety and health act and the occupational safety health act
31 shall be selected in accord with chapter 36.~~]

32 6. All the powers, duties, and functions vested by law in the state board of mediation
33 under chapter 295, and others, are transferred by type II transfer to the department.

34 7. ~~[All employees of the division of employment security shall be selected in accord with~~
35 ~~chapter 36.~~

36 ~~8.]~~ The Missouri commission on human rights, and all the authority, powers, duties,
37 functions, records, personnel, property, matters pending and other pertinent vestiges thereof
38 vested in the Missouri commission on human rights under chapters 213, 296, 314, and others,
39 are transferred by type III transfer to the department. Members of the Missouri commission on
40 human rights shall be nominated by the director for appointment by the governor, by and with
41 the advice and consent of the senate.

288.220. 1. Subject to the supervision of the director of the department of labor and
2 industrial relations, the division of employment security of the department of labor and industrial
3 relations shall be under the control, management and supervision of a director who shall be
4 appointed by the governor, by and with the advice and consent of the senate. The director shall
5 serve at the pleasure of the governor.

6 2. The division shall be responsible for administering the Missouri state unemployment
7 insurance operation and any other operations as are necessary to administer the state's
8 employment security law.

9 3. The central office of the division shall be maintained in the City of Jefferson.

10 4. Subject to the supervision and approval of the director of the department of labor and
11 industrial relations, it shall be the duty of the director to administer this law; and the director
12 shall have power and authority to adopt, amend, or rescind any regulations as the director deems
13 necessary to the efficient internal management of the division. The director shall determine the
14 division's organization and methods of procedure. ~~[Subject to the provisions of the state merit~~
15 ~~system law, chapter 36,]~~ The director shall employ and prescribe the duties and powers of the
16 persons as may be necessary. The director shall collaborate with the personnel director ~~[and the~~
17 ~~personnel advisory board]~~ in establishing for employees of the division salaries comparable to
18 the salaries paid by other states of a similar size and volume of operations to employees engaged
19 in the administration of the employment security programs of those states. The director may
20 delegate to any such person the power and authority as the director deems reasonable and proper
21 for the effective administration of the law, and may in the director's discretion bond any person
22 handling moneys or signing checks. Further, the director shall have the power to make
23 expenditures, require reports, make investigations and take other action not inconsistent with this
24 law as he or she considers necessary to the efficient and proper administration of the law.

25 5. Subject to the approval of the director of the department of labor and industrial
26 relations and the commission, the director shall adopt, amend or rescind the rules and regulations

27 as are necessary to implement any of the provisions of this law not relating to the internal
28 management of the division; however, the rules and regulations shall not become effective until
29 ten days after their approval by the commission and copies thereof have been filed in the office
30 of the secretary of state.

291.030. [~~1. Subject to the provisions of the merit system law, chapter 36,~~] The director
2 of the department of labor and industrial relations shall employ and prescribe the duties and
3 powers of such persons as may be required and may make expenditures within the appropriation
4 therefor as may be necessary to carry out the purposes of the law.

5 [~~2. Any person employed by the inspection section more than six months prior to August
6 13, 1972, shall be admitted to the qualifying examination covering the position held by him and
7 may be retained at the discretion of the director provided that he attains a passing grade in such
8 examination. Any employee appointed within six months prior to August 13, 1972, and any
9 employee appointed from and after August 13, 1972, shall be appointed subject to the merit
10 system law.~~]

510.035. 1. Except as provided in subsection 2 of this section, any visual or aural
2 recordings or photographs of a minor who is alleged to be the victim of an offense under chapter
3 566 created by or in the possession of a child assessment center, health care provider, or
4 multidisciplinary team member shall not be copied or distributed to any person or entity, unless
5 required by supreme court rule 25.03 or if a court orders such copying or distribution upon a
6 showing of good cause after notice and a hearing and after considering the safety and privacy
7 interests of any victim.

8 2. The following persons or entities may access or share any copies of visual or aural
9 recordings or photographs as described in subsection 1 of this section for the following purposes:

10 (1) Multidisciplinary team members as part of an investigation, as well as for the
11 provision of protective or preventive social services for minors and their families. For purposes
12 of this section, multidisciplinary team members shall consist of representatives of law
13 enforcement, the children's division, the prosecuting attorney, the child assessment center, the
14 juvenile office, and the health care provider;

15 (2) Department of social services employees and their legal counsel as part of the
16 provision of child protection as described in section 210.109, as well as for use in administrative
17 proceedings as established by department regulations [~~or through the administrative hearing
18 commission as provided under section 621.075~~];

19 (3) Department of mental health employees and their legal counsel as part of an
20 investigation conducted under section 630.167, as well as for use in administrative proceedings
21 as established by department regulations [~~or through the administrative hearing commission as
22 provided under section 621.075~~];

- 23 (4) The office of child advocate as part of a review under section 37.710;
- 24 (5) The child abuse and neglect review board as part of a review under sections 210.152
25 and 210.153; and
- 26 (6) The attorney general as part of a legal proceeding.
- 27 3. If a court orders the copying or distribution of visual or aural recordings or
28 photographs as described in subsection 1 of this section, the order shall:
- 29 (1) Be limited solely to the use of the recordings or photographs for the purposes of a
30 pending court proceeding or in preparation for a pending court proceeding;
- 31 (2) Prohibit further copying, reproduction, or distribution of the recordings or
32 photographs; and
- 33 (3) Require, upon the final disposition of the case, the return of all copies to the health
34 care provider, child assessment center or multidisciplinary team member that originally had
35 possession of the recordings or photographs, or provide an affidavit to the health care provider,
36 child assessment center, or multidisciplinary team member that originally had possession of the
37 recordings or photographs certifying that all copies have been destroyed.
- 38 4. Nothing in this section shall prohibit multidisciplinary team members from exercising
39 discretion to grant access to viewing, but not copying, the visual or aural recordings or
40 photographs.

620.460. 1. The commission shall employ a staff headed by a director of tourism who
2 shall be qualified by education and experience in public administration with a background in the
3 use of the various news media as to the dissemination of public information to promote tourism.
4 The director shall serve at the pleasure of the commission, and the commission shall fix his **or**
5 **her** compensation within the appropriation made for the purpose.

6 2. The director of tourism shall by and with the consent of the commission employ a staff
7 composed of such professional, technical and clerical personnel as necessary to carry out the
8 purposes of sections 620.450 to 620.465 and set their compensation within the appropriation
9 made for that purpose.

10 ~~[3. All members of the staff except the director shall be employed under the provisions~~
11 ~~of the state merit system law.]~~

620.568. 1. A project sponsor shall administer projects funded under sections 620.552
2 to 620.574 in the following manner:

- 3 (1) Participants, except those enrolled in the youth volunteer program, shall be paid at
4 least the minimum wage as established by federal or state law at the time of employment;
- 5 (2) Persons employed through any of the corps programs ~~[shall be exempt from merit~~
6 ~~system requirements, and]~~ shall not be eligible for membership in any public employees'

7 retirement system. All participants shall be so advised by the project sponsor and the regulating
8 authority;

9 (3) Services performed by a participant in any corps program shall not constitute
10 "employment" within the meaning of the Missouri employment security law in chapter 288, if
11 the program is operated as a work-relief or work-training program in accordance with
12 subdivision (5) of subsection 9 of section 288.034.

13 2. Not more than ten percent of the funds distributed to a project sponsor may be
14 expended for administrative expenses. Administrative expenses shall be approved by the
15 division.

16 3. No funds shall be awarded for any program which replaces or supplants employees
17 engaged in any authorized work stoppage or which replaces or supplants currently employed
18 workers or which impairs existing contracts for services provided by other workers.

630.003. 1. There is hereby created a department of mental health to be headed by a
2 mental health commission who shall appoint a director, by and with the advice and consent of
3 the senate. The director shall be the administrative head of the department and shall serve at the
4 pleasure of the commission and be compensated as provided by law for the director, division of
5 mental health. ~~[All employees of the department shall be selected in accordance with chapter~~
6 ~~36.]~~

7 2. (1) The "State Mental Health Commission", composed of seven members, is the
8 successor to the former state mental health commission and it has all the powers, duties and
9 responsibilities of the former commission. All members of the commission shall be appointed
10 by the governor, by and with the advice and consent of the senate. None of the members shall
11 otherwise be employed by the state of Missouri.

12 (2) Three of the commission members first appointed shall be appointed for terms of
13 four years, and two shall be appointed for terms of three years, and two shall be appointed for
14 a term of two years. The governor shall designate, at the time the appointments are made, the
15 length of the term of each member so appointed. Thereafter all terms shall be for four years.

16 (3) At least two of the members of the commission shall be physicians, one of whom
17 shall be recognized as an expert in the field of the treatment of nervous and mental diseases, and
18 one of whom shall be recognized as an expert in the field of intellectual or developmental
19 disabilities. At least two of the members of the commission shall be representative of persons
20 or groups who are consumers having substantial interest in the services provided by the division,
21 one of whom shall represent persons with an intellectual disability or developmental disability
22 and one of whom shall represent those persons being treated for nervous and mental diseases.
23 Of the other three members at least one must be recognized for his **or her** expertise in general

24 business management procedures, and two shall be recognized for their interest and expertise in
25 dealing with alcohol/drug abuse problems, or community mental health services.

26 3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150, 191.160,
27 191.170, 191.180, 191.190, 191.200, 191.210 and others as they relate to the division of mental
28 health not previously reassigned by executive reorganization plan number 2 of 1973 as submitted
29 by the governor under chapter 26 are transferred by specific type transfer from the department
30 of public health and welfare to the department of mental health. The division of mental health,
31 department of health and welfare, chapter 202 and others are abolished and all powers, duties and
32 functions now assigned by law to the division, the director of the divisions of mental health or
33 any of the institutions or officials of the division are transferred by type I transfer to the
34 department of mental health.

35 4. The Missouri institute of psychiatry, which is under the board of curators of the
36 University of Missouri is hereafter to be known as the "Missouri Institute of Mental Health".
37 The purpose of the institute will be that of conducting research into improving services for
38 persons served by the department of mental health for fostering the training of psychiatric
39 residents in public psychiatry and for fostering excellence in mental health services through
40 employee training and the study of mental health policy and ethics. To assist in this training,
41 hospitals operated by and providers contracting with the department of mental health may be
42 used for the same purposes and under the same arrangements as the board of curators of the
43 University of Missouri utilizes with other hospitals in the state in supervising residency training
44 for medical doctors. Appropriations requests for the Missouri institute of mental health shall be
45 jointly developed by the University of Missouri and the department of mental health. All
46 appropriations for the Missouri institute of mental health shall be made to the curators of the
47 University of Missouri but shall be submitted separately from the appropriations of the curators
48 of the University of Missouri.

49 5. There is hereby established within the department of mental health a division of
50 developmental disabilities. The director of the division shall be appointed by the director of the
51 department. The division shall administer all state facilities under the direction and authority of
52 the department director. The Marshall Habilitation Center, the Higginsville Habilitation Center,
53 the Bellefontaine Habilitation Center, the Nevada Habilitation Center, the St. Louis
54 Developmental Disabilities Treatment Centers, and the regional centers located at Albany,
55 Columbia, Hannibal, Joplin, Kansas City, Kirksville, Poplar Bluff, Rolla, St. Louis, Sikeston and
56 Springfield and other similar facilities as may be established, are transferred by type I transfer
57 to the division of developmental disabilities.

58 6. All the duties, powers and functions of the advisory council on mental retardation and
59 community health centers, sections 202.664 to 202.666, are hereby transferred by type I transfer

60 to the division of mental retardation and developmental disabilities of the department of mental
61 health. The advisory council on mental retardation and community health centers shall be
62 appointed by the division director.

63 7. The advisory council on mental retardation and developmental disabilities heretofore
64 established by executive order and all of the duties, powers and functions of the advisory council
65 including the responsibilities of the provision of the council in regard to the Federal
66 Development Disabilities Law (P.L. 91-517) and all amendments thereto are transferred by type
67 I transfer to the division of developmental disabilities. The advisory council on mental
68 retardation and developmental disabilities shall be appointed by the director of the division of
69 developmental disabilities.

70 8. The advisory council on alcoholism and drug abuse, chapter 202, is transferred by type
71 II transfer to the department of mental health and the members of the advisory council shall be
72 appointed by the mental health director.

630.030. The director shall appoint the directors of the divisions of the department, and
2 such division directors shall serve at the pleasure of the director. The director shall ~~be the~~
3 ~~appointing authority under chapter 36 to~~ employ such administrative, technical and other
4 personnel who may be assigned to the department generally rather than to any of the department
5 divisions or facilities and whose employment is necessary for the performance of the powers and
6 duties of the department.

630.035. 1. The directors of the various divisions of the department, with the approval
2 of the department director, shall ~~in accordance with chapter 36,~~ appoint for each facility under
3 the administration and control of their respective divisions chief administrative officers of the
4 facilities.

5 2. The major facilities of the department shall have chiefs of medical staff who shall be
6 licensed physicians with responsibilities for the development and monitoring of medical care and
7 treatment.

630.040. 1. The chief administrative officers of the facilities of the divisions of the
2 department, subject to the directives of the department director and the respective division
3 directors, shall have charge, control and management of their facilities.

4 2. The chief administrative officer of each facility shall keep the records and make the
5 reports which the department and the respective division deem necessary and advisable.

6 ~~[3. Each chief administrative officer shall exercise the powers and duties of the~~
7 ~~appointing authority under chapter 36, subject to the supervision of the department director and~~
8 ~~the respective division directors.]~~

630.167. 1. Upon receipt of a report the department or the department of health and
2 senior services, if such facility or program is licensed pursuant to chapter 197, shall initiate an

3 investigation within twenty-four hours. The department of mental health shall complete all
4 investigations within sixty days, unless good cause for the failure to complete the investigation
5 is documented.

6 2. If the investigation indicates possible abuse or neglect of a patient, resident or client,
7 the investigator shall refer the complaint together with the investigator's report to the department
8 director for appropriate action. If, during the investigation or at its completion, the department
9 has reasonable cause to believe that immediate removal from a facility not operated or funded
10 by the department is necessary to protect the residents from abuse or neglect, the department or
11 the local prosecuting attorney may, or the attorney general upon request of the department shall,
12 file a petition for temporary care and protection of the residents in a circuit court of competent
13 jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to
14 issue an ex parte order granting the department authority for the temporary care and protection
15 of the resident for a period not to exceed thirty days.

16 3. (1) Except as otherwise provided in this section, reports referred to in section 630.165
17 and the investigative reports referred to in this section shall be confidential, shall not be deemed
18 a public record, and shall not be subject to the provisions of section 109.180 or chapter 610.
19 Investigative reports pertaining to abuse and neglect shall remain confidential until a final report
20 is complete, subject to the conditions contained in this section. Final reports of substantiated
21 abuse or neglect issued on or after August 28, 2007, are open and shall be available for release
22 in accordance with chapter 610. The names and all other identifying information in such final
23 substantiated reports, including diagnosis and treatment information about the patient, resident,
24 or client who is the subject of such report, shall be confidential and may only be released to the
25 patient, resident, or client who has not been adjudged incapacitated under chapter 475, the
26 custodial parent or guardian parent, or other guardian of the patient, resident or client. The
27 names and other descriptive information of the complainant, witnesses, or other persons for
28 whom findings are not made against in the final substantiated report shall be confidential and not
29 deemed a public record. Final reports of unsubstantiated allegations of abuse and neglect shall
30 remain closed records and shall only be released to the parents or other guardian of the patient,
31 resident, or client who is the subject of such report, patient, resident, or client and the department
32 vendor, provider, agent, or facility where the patient, resident, or client was receiving department
33 services at the time of the unsubstantiated allegations of abuse and neglect, but the names and
34 any other descriptive information of the complainant or any other person mentioned in the
35 reports shall not be disclosed unless such complainant or person specifically consents to such
36 disclosure. Requests for final reports of substantiated or unsubstantiated abuse or neglect from
37 a patient, resident or client who has not been adjudged incapacitated under chapter 475 may be
38 denied or withheld if the director of the department or his or her designee determines that such

39 release would jeopardize the person's therapeutic care, treatment, habilitation, or rehabilitation,
40 or the safety of others and provided that the reasons for such denial or withholding are submitted
41 in writing to the patient, resident or client who has not been adjudged incapacitated under chapter
42 475. All reports referred to in this section shall be admissible in any judicial proceedings ~~or~~
43 ~~hearing in accordance with section 621.075]~~ or any administrative hearing before the director of
44 the department of mental health, or the director's designee. All such reports may be disclosed
45 by the department of mental health to law enforcement officers and public health officers, but
46 only to the extent necessary to carry out the responsibilities of their offices, and to the department
47 of social services, and the department of health and senior services, and to boards appointed
48 pursuant to sections 205.968 to 205.990 that are providing services to the patient, resident or
49 client as necessary to report or have investigated abuse, neglect, or rights violations of patients,
50 residents or clients provided that all such law enforcement officers, public health officers,
51 department of social services' officers, department of health and senior services' officers, and
52 boards shall be obligated to keep such information confidential.

53 (2) Except as otherwise provided in this section, the proceedings, findings, deliberations,
54 reports and minutes of committees of health care professionals as defined in section 537.035 or
55 mental health professionals as defined in section 632.005 who have the responsibility to evaluate,
56 maintain, or monitor the quality and utilization of mental health services are privileged and shall
57 not be subject to the discovery, subpoena or other means of legal compulsion for their release
58 to any person or entity or be admissible into evidence into any judicial or administrative action
59 for failure to provide adequate or appropriate care. Such committees may exist, either within
60 department facilities or its agents, contractors, or vendors, as applicable. Except as otherwise
61 provided in this section, no person who was in attendance at any investigation or committee
62 proceeding shall be permitted or required to disclose any information acquired in connection
63 with or in the course of such proceeding or to disclose any opinion, recommendation or
64 evaluation of the committee or board or any member thereof; provided, however, that
65 information otherwise discoverable or admissible from original sources is not to be construed
66 as immune from discovery or use in any proceeding merely because it was presented during
67 proceedings before any committee or in the course of any investigation, nor is any member,
68 employee or agent of such committee or other person appearing before it to be prevented from
69 testifying as to matters within their personal knowledge and in accordance with the other
70 provisions of this section, but such witness cannot be questioned about the testimony or other
71 proceedings before any investigation or before any committee.

72 (3) Nothing in this section shall limit authority otherwise provided by law of a health
73 care licensing board of the state of Missouri to obtain information by subpoena or other
74 authorized process from investigation committees or to require disclosure of otherwise

75 confidential information relating to matters and investigations within the jurisdiction of such
76 health care licensing boards; provided, however, that such information, once obtained by such
77 board and associated persons, shall be governed in accordance with the provisions of this
78 subsection.

79 (4) Nothing in this section shall limit authority otherwise provided by law in
80 subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the
81 entity or agency authorized to implement a system to protect and advocate the rights of persons
82 with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044 and
83 the entity or agency authorized to implement a system to protect and advocate the rights of
84 persons with mental illness under the provisions of 42 U.S.C. Section 10801. In addition,
85 nothing in this section shall serve to negate assurances that have been given by the governor of
86 Missouri to the U.S. Administration on Developmental Disabilities, Office of Human
87 Development Services, Department of Health and Human Services concerning access to records
88 by the agency designated as the protection and advocacy system for the state of Missouri.
89 However, such information, once obtained by such entity or agency, shall be governed in
90 accordance with the provisions of this subsection.

91 4. Any person who makes a report pursuant to this section or who testifies in any
92 administrative or judicial proceeding arising from the report shall be immune from any civil
93 liability for making such a report or for testifying unless such person acted in bad faith or with
94 malicious purpose.

95 5. (1) Within five working days after a report required to be made pursuant to this
96 section is received, the person making the report shall be notified in writing of its receipt and of
97 the initiation of the investigation.

98 (2) For investigations alleging neglect of a patient, resident, or client, the guardian of
99 such patient, resident, or client shall be notified of:

100 (a) The investigation and given an opportunity to provide information to the
101 investigators;

102 (b) The results of the investigation within five working days of the completion of the
103 investigation and decision of the department of mental health of the results of the investigation.

104 6. The department of mental health shall obtain two independent reviews of all patient,
105 resident, or client deaths that it investigates.

106 7. No person who directs or exercises any authority in a residential facility, day program
107 or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client
108 or employee because he or she or any member of his or her family has made a report of any
109 violation or suspected violation of laws, ordinances or regulations applying to the facility which
110 he or she has reasonable cause to believe has been committed or has occurred.

111 ~~[8. Any person who is discharged as a result of an administrative substantiation of~~
112 ~~allegations contained in a report of abuse or neglect may, after exhausting administrative~~
113 ~~remedies as provided in chapter 36, appeal such decision to the circuit court of the county in~~
114 ~~which such person resides within ninety days of such final administrative decision. The court~~
115 ~~may accept an appeal up to twenty-four months after the party filing the appeal received notice~~
116 ~~of the department's determination, upon a showing that:~~

117 ~~—— (1) Good cause exists for the untimely commencement of the request for the review;~~

118 ~~—— (2) If the opportunity to appeal is not granted it will adversely affect the party's~~
119 ~~opportunity for employment; and~~

120 ~~—— (3) There is no other adequate remedy at law.]~~

631.015. The division director, subject to the supervision of the director, shall be the
2 chief administrative officer of the division and shall ~~[exercise for the division the powers and~~
3 ~~duties of an appointing authority under chapter 36, to]~~ employ such administrative, technical and
4 other personnel, except employees of department facilities, as may be necessary for the
5 performance of the powers and duties of the division.

632.015. The division director, subject to the supervision of the director, shall be the
2 chief administrative officer of his **or her** division and shall ~~[exercise for the division the powers~~
3 ~~and duties of an appointing authority under chapter 36 to]~~ employ such administrative, technical
4 and other personnel, except employees of department facilities, as may be necessary for the
5 performance of the powers and duties of the division.

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2 chief administrative officer of his **or her** division and shall ~~[exercise for the division the powers~~
3 ~~and duties of an appointing authority under chapter 36 to]~~ employ such administrative, technical
4 and other personnel, except employees of department facilities, as may be necessary for the
5 performance of the powers and duties of the division.

640.010. 1. There is hereby created a department of natural resources in charge of a
2 director appointed by the governor, by and with the advice and consent of the senate. The
3 director shall administer the programs assigned to the department relating to environmental
4 control and the conservation and management of natural resources. The director shall coordinate
5 and supervise all staff and other personnel assigned to the department. He **or she** shall faithfully
6 cause to be executed all policies established by the boards and commissions assigned to the
7 department, be subject to their decisions as to all substantive and procedural rules and his or her
8 decisions shall be subject to appeal as provided by law. The director shall recommend policies
9 to the various boards and commissions assigned to the department to achieve effective and
10 coordinated environmental control and natural resource conservation policies.

11 2. The director shall appoint directors of staff to service each of the policy making
12 boards or commissions assigned to the department. Each director of staff shall be qualified by
13 education, training and experience in the technical matters of the board to which he **or she** is
14 assigned and his or her appointment shall be approved by the board to which he **or she** is
15 assigned and he **or she** shall be removed or reassigned on their request in writing to the director
16 of the department. All other employees of the department and of each board and commission
17 assigned to the department [~~shall be appointed by the director of the department in accord with~~
18 ~~chapter 36, and~~] shall be assigned and may be reassigned as required by the director of the
19 department in such a manner as to provide optimum service, efficiency and economy.

20 3. The air conservation commission, chapter 203 and others, the clean water
21 commission, chapter 204 and others, are transferred by type II transfer to the department of
22 natural resources. The governor shall appoint the members of these bodies in accord with the
23 laws establishing them, with the advice and consent of the senate. The bodies hereby transferred
24 shall retain all rulemaking and hearing powers allotted by law, as well as those of any bodies
25 transferred to their jurisdiction. All the powers, duties and functions of the state environmental
26 improvement authority, chapter 260 and others, are transferred by type III transfer to the air
27 conservation commission. All the powers, duties and functions of the water resources board,
28 chapter 256 and others, are transferred by type I transfer to the clean water commission and the
29 board is abolished. No member of the clean water commission shall receive or shall have
30 received, during the previous two years from the date of his or her appointment, a significant
31 portion of his or her income directly or indirectly from permit holders or applicants for a permit
32 under the jurisdiction of the clean water commission. The state park board, chapter 253, is
33 transferred to the department of natural resources by type I transfer.

34 4. All the powers, duties and functions of the state soil and water districts commission,
35 chapter 278 and others, are transferred by a type II transfer to the department.

36 5. All the powers, duties and functions of the state geologist, chapter 256 and others, are
37 transferred by type I transfer to the department of natural resources. All the powers, duties and
38 functions of the state oil and gas council, chapter 259 and others, are transferred to the
39 department of natural resources by type II transfer. The director of the department shall appoint
40 a state geologist who shall have the duties to supervise and coordinate the work formerly done
41 by the departments or authorities abolished by this subsection, and shall provide staff services
42 for the state oil and gas council.

43 6. All the powers, duties and functions of the land reclamation commission, chapter 444
44 and others, are transferred to the department of natural resources by type II transfer. All
45 necessary personnel required by the commission shall be selected, employed and discharged by
46 the commission. The director of the department shall not have the authority to abolish positions.

47 7. The functions performed by the division of health in relation to the maintenance of
48 a safe quality of water dispensed to the public, sections 640.100 to 640.115, and others, and for
49 licensing and regulating solid waste management systems and plans are transferred by type I
50 transfer to the department of natural resources.

 660.010. 1. There is hereby created a "Department of Social Services" in charge of a
2 director appointed by the governor, by and with the advice and consent of the senate. All the
3 powers, duties and functions of the director of the department of public health and welfare,
4 chapters 191 and 192, and others, not previously reassigned by executive reorganization plan
5 number 2 of 1973 as submitted by the governor under chapter 26 except those assigned to the
6 department of mental health, are transferred by type I transfer to the director of the department
7 of social services and the office of the director, department of public health and welfare is
8 abolished. The department of public health and welfare is abolished. ~~[All employees of the
9 department of social services shall be covered by the provisions of chapter 36 except the director
10 of the department and the director's secretary, all division directors and their secretaries, and no
11 more than three additional positions in each division which may be designated by the division
12 director.]~~

13 2. It is the intent of the general assembly in establishing the department of social
14 services, as provided herein, to authorize the director of the department to coordinate the state's
15 programs devoted to those unable to provide for themselves and for the rehabilitation of victims
16 of social disadvantage. The director shall use the resources provided to the department to
17 provide comprehensive programs and leadership striking at the roots of dependency, disability
18 and abuse of society's rules with the purpose of improving service and economical operations.
19 The department is directed to take all steps possible to consolidate and coordinate the field
20 operations of the department to maximize service to the citizens of the state.

21 3. All references to the division of welfare shall hereafter be construed to mean the
22 department of social services or the appropriate division within the department.

23 4. The state's responsibility under public law 452 of the eighty-eighth Congress and
24 others, pertaining to the Office of Economic Opportunity, is transferred by type I transfer to the
25 department of social services.

26 5. The state's responsibility under public law 73, Older Americans Act of 1965, of the
27 eighty-ninth Congress is transferred by type I transfer to the department of social services.

28 6. All the powers, duties and functions vested by law in the curators of the University
29 of Missouri relating to crippled children's services, chapter 201, are transferred by type I transfer
30 to the department of social services.

31 7. All the powers, duties and functions vested in the state board of training schools,
32 chapter 219 and others, are transferred by type I transfer to the "Division of Youth Services"

33 hereby authorized in the department of social services headed by a director appointed by the
34 director of the department. The state board of training schools shall be reconstituted as an
35 advisory board on youth services, appointed by the director of the department. The advisory
36 board shall visit each facility of the division as often as possible, shall file a written report with
37 the director of the department and the governor on conditions they observed relating to the care
38 and rehabilitative efforts in behalf of children assigned to the facility, the security of the facility
39 and any other matters pertinent in their judgment. Copies of these reports shall be filed with the
40 legislative library. Members of the advisory board shall receive reimbursement for their
41 expenses and twenty-five dollars a day for each day they engage in official business relating to
42 their duties. The members of the board shall be provided with identification means by the
43 director of the division permitting immediate access to all facilities enabling them to make
44 unannounced entrance to facilities they wish to inspect.

2 ~~[36.030. 1. A system of personnel administration based on merit~~
3 ~~principles and designed to secure efficient administration is established for all~~
4 ~~offices, positions and employees, except attorneys, of the department of social~~
5 ~~services, the department of corrections, the department of health and senior~~
6 ~~services, the department of natural resources, the department of mental health, the~~
7 ~~division of personnel and other divisions and units of the office of administration;~~
8 ~~the division of employment security, mine safety and on-site consultation~~
9 ~~sections of the division of labor standards and administration operations of the~~
10 ~~department of labor and industrial relations, the division of tourism and division~~
11 ~~of workforce development, the Missouri housing development commission, and~~
12 ~~the office of public counsel of the department of economic development, the~~
13 ~~Missouri veterans commission, capitol police and state emergency management~~
14 ~~agency of the department of public safety, such other agencies as may be~~
15 ~~designated by law, and such other agencies as may be required to maintain~~
16 ~~personnel standards on a merit basis by federal law or regulations for grant-in-aid~~
17 ~~programs; except that, the following offices and positions of these agencies are~~
18 ~~not subject to this chapter and may be filled without regard to its provisions:~~

19 ~~————— (1) Other provisions of the law notwithstanding, members of boards and~~
20 ~~commissions, departmental directors, five principal assistants designated by the~~
21 ~~departmental directors, division directors, and three principal assistants~~
22 ~~designated by each division director; except that, these exemptions shall not~~
23 ~~apply to the division of personnel;~~

24 ~~————— (2) One principal assistant for each board or commission, the members~~
25 ~~of which are appointed by the governor or by a director of the department;~~

26 ~~————— (3) Chaplains and attorneys regularly employed or appointed in any~~
27 ~~department or division subject to this chapter, except as provided in section~~
28 ~~36.031;~~

29 ~~————— (4) Persons employed in work assignments with a geographic location~~
~~principally outside the state of Missouri and other persons whose employment is~~

30 such that selection by competitive examination and standard classification and
31 compensation practices are not practical under all the circumstances as
32 determined by the board by rule;

33 ~~————— (5) Patients or inmates in state charitable, penal and correctional~~
34 ~~institutions who may also be employees in the institutions;~~

35 ~~————— (6) Persons employed in an internship capacity in a state department or~~
36 ~~institution as a part of their formal training, at a college, university, business,~~
37 ~~trade or other technical school; except that, by appropriate resolution of the~~
38 ~~governing authorities of any department or institution, the personnel division may~~
39 ~~be called upon to assist in selecting persons to be appointed to internship~~
40 ~~positions;~~

41 ~~————— (7) The administrative head of each state medical, penal and correctional~~
42 ~~institution, as warranted by the size and complexity of the organization and as~~
43 ~~approved by the board;~~

44 ~~————— (8) Deputies or other policy-making assistants to the exempt head of each~~
45 ~~division of service, as warranted by the size or complexity of the organization and~~
46 ~~in accordance with the rules promulgated by the personnel advisory board;~~

47 ~~————— (9) Special assistants as designated by an appointing authority; except~~
48 ~~that, the number of such special assistants shall not exceed one percent of a~~
49 ~~department's total authorized full-time equivalent workforce;~~

50 ~~————— (10) Merit status shall be retained by present incumbents of positions~~
51 ~~identified in this section which have previously been subject to this chapter.~~

52 ~~————— 2. All positions in the executive branch transferred to coverage pursuant~~
53 ~~to this chapter where incumbents of such positions have at least twelve months'~~
54 ~~prior service on the effective date of such transfer shall have incumbency~~
55 ~~preference and shall be permitted to retain their positions, provided they meet~~
56 ~~qualification standards acceptable to the division of personnel of the office of~~
57 ~~administration. An employee with less than twelve months of prior service on~~
58 ~~the effective date of such transfer or an employee who is appointed to such~~
59 ~~position after the effective date of such transfer and prior to the classification and~~
60 ~~allocation of the position by the division of personnel shall be permitted to retain~~
61 ~~his or her position, provided he or she meets acceptable qualification standards~~
62 ~~and subject to successful completion of a working test period which shall not~~
63 ~~exceed twelve months of total service in the position. After the allocation of any~~
64 ~~position to an established classification, such position shall thereafter be filled~~
65 ~~only in accordance with all provisions of this chapter.~~

66 ~~————— 3. The system of personnel administration governs the appointment,~~
67 ~~promotion, transfer, layoff, removal and discipline of employees and officers and~~
68 ~~other incidents of employment in divisions of service subject to this chapter, and~~
69 ~~all appointments and promotions to positions subject to this chapter shall be~~
70 ~~made on the basis of merit and fitness.~~

71 ~~————— 4. To encourage all state employees to improve the quality of state~~
72 ~~services, increase the efficiency of state work operations, and reduce the costs of~~

73 state programs, the director of the division of personnel shall establish employee
74 recognition programs, including a statewide employee suggestion system. The
75 director shall determine reasonable rules and shall provide reasonable standards
76 for determining the monetary awards, not to exceed five thousand dollars, under
77 the employee suggestion system. Awards shall be made from funds appropriated
78 for this purpose.

79 ~~5. At the request of the senate or the house of representatives, the~~
80 ~~commissioner of administration shall submit a report on the employee suggestion~~
81 ~~award program described in subsection 4 of this section.]~~
82

2 ~~[36.031. Any provision of law to the contrary notwithstanding, except for~~
3 ~~the elective offices, institutions of higher learning, the department of~~
4 ~~transportation, the department of conservation, those positions in the Missouri~~
5 ~~state highway patrol the compensation of which is established by subdivision (2)~~
6 ~~of subsection 2 of section 43.030 and section 43.080, those positions in the~~
7 ~~division of finance and the division of credit unions compensated through a~~
8 ~~dedicated fund obtained from assessments and license fees under sections~~
9 ~~361.170 and 370.107, and those positions for which the constitution specifically~~
10 ~~provides the method of selection, classification, or compensation, and the~~
11 ~~positions specified in subsection 1 of section 36.030, but including attorneys,~~
12 ~~those departments, agencies and positions of the executive branch of state~~
13 ~~government which have not been subject to these provisions of the state~~
14 ~~personnel law shall be subject to the provisions of sections 36.100, 36.110,~~
15 ~~36.120 and 36.130, and the regulations adopted pursuant to sections 36.100,~~
16 ~~36.110, 36.120 and 36.130 which relate to the preparation, adoption and~~
17 ~~maintenance of a position classification plan, the establishment and allocation of~~
18 ~~positions within the classification plan and the use of appropriate class titles in~~
19 ~~official records, vouchers, payrolls and communications. Any provision of law~~
20 ~~which confers upon any official or agency subject to the provisions of this section~~
21 ~~the authority to appoint, classify or establish compensation for employees shall~~
22 ~~mean the exercise of such authority subject to the provisions of this section. This~~
23 ~~section shall not extend coverage of any section of this chapter, except those~~
24 ~~specifically named in this section, to any agency or employee. In accordance~~
25 ~~with sections 36.100, 36.110, 36.120 and 36.130, and after consultation with~~
26 ~~appointing authorities, the director of the division of personnel shall conduct such~~
27 ~~job studies and job reviews and establish such additional new and revised job~~
28 ~~classes as the director finds necessary for appropriate classification of the~~
29 ~~positions involved. Such classifications and the allocation of positions to classes~~
30 ~~shall be maintained on a current basis by the division of personnel. The director~~
31 ~~of the division of personnel shall, at the same time, notify all affected agencies~~
32 ~~of the appropriate assignment of each job classification to one of the salary~~
33 ~~ranges within the pay plan then applicable to merit system agencies. The affected~~
~~agencies and employees in the classifications set pursuant to this section shall be~~

34 subject to the pay plan and rates of compensation established and administered
35 in accordance with the provisions of this section, and the regulations adopted
36 pursuant to this section, on the same basis as for merit agency employees. In
37 addition, any elected official, institution of higher learning, the department of
38 transportation, the department of conservation, the general assembly, or any judge
39 who is the chief administrative officer of the judicial branch of state government
40 may request the division of personnel to study salaries within the requestor's
41 office, department or branch of state government for classification purposes.]
42

2 [36.050. 1. The personnel advisory board and its functions, duties and
3 powers prescribed in this chapter is transferred by type III transfer to the office
4 of administration.

5 ~~2. The personnel advisory board shall consist of seven members. Four~~
6 ~~members of the board shall be public members, citizens of the state who are not~~
7 ~~state employees or officials, of good character and reputation, who are known to~~
8 ~~be in sympathy with the application of merit principles to public employment.~~
9 ~~Two members shall be employees of state agencies covered by section 36.030 or~~
10 ~~section 36.031, one a member of executive management, and one a~~
11 ~~nonmanagement employee. The state equal employment opportunity officer shall~~
12 ~~be a member of the board. No member of the board, during the member's term~~
13 ~~of office, or for at least one year prior thereto, shall be a member of any local,~~
14 ~~state or national committee of a political party or an officer or member of a~~
15 ~~committee in any partisan political club or organization, or hold, or be a~~
16 ~~candidate for, a partisan public office. An employee member who leaves state~~
17 ~~employment or otherwise fails to further qualify for the appointment shall vacate~~
18 ~~the position.~~

19 ~~3. The members of the board shall be appointed by the governor by and~~
20 ~~with the advice and consent of the senate. The three current members of the~~
21 ~~board serving terms which expire July 31, 1998, July 31, 2000, and July 31,~~
22 ~~2002, shall continue to serve for the terms for which they were previously~~
23 ~~appointed. One new public member shall be appointed for a term ending July 31,~~
24 ~~1998, one employee member shall be appointed for a term ending July 31, 2000,~~
25 ~~and one employee member shall be appointed for a term ending July 31, 2002.~~
26 ~~Thereafter, appointments of all members shall be for terms of six years. Any~~
27 ~~vacancy shall be filled by an appointment for the unexpired term. Each member~~
28 ~~of the board shall hold office until such member's successor is appointed and~~
29 ~~qualified.~~

30 ~~4. A member of the board is removable by the governor only for just~~
31 ~~cause, after being given a written notice setting forth in substantial detail the~~
32 ~~charges against the member and an opportunity to be heard publicly on the~~
33 ~~charges before the governor. A copy of the charges and a transcript of the record~~
~~of the hearing shall be filed with the secretary of state.~~

34 ~~5. Each public member of the board shall be paid an amount for each day~~
 35 ~~devoted to the work of the board which shall be determined by the commissioner~~
 36 ~~of administration and filed with the reorganization plan of the office of~~
 37 ~~administration; provided, however, that such amount shall not exceed that paid~~
 38 ~~to members of boards and commissions with comparable responsibilities. All~~
 39 ~~board members are entitled to reimbursement for necessary travel and other~~
 40 ~~expenses pertaining to the duties of the board. Duties performed for the board~~
 41 ~~by any employee member of the board shall be considered duties in connection~~
 42 ~~with the appointment of the individual, and such employee member shall suffer~~
 43 ~~no loss of regular compensation by reason of performance of such duties.~~

44 ~~6. The board shall elect from among its membership a chairman and vice~~
 45 ~~chairman, who shall act as chairman in the chairman's absence. It shall meet at~~
 46 ~~the times and places specified by call of the chairman, the governor, or the~~
 47 ~~director. At least one meeting shall be held every three months. All regular~~
 48 ~~meetings are open to the public. Notice of each meeting shall be given in writing~~
 49 ~~to each member by the director. Two members shall constitute a quorum until~~
 50 ~~January 1, 1997, thereafter, four members shall constitute a quorum for the~~
 51 ~~transaction of official business.~~

52 ~~7. To assist in the performance of its duties the board may employ staff~~
 53 ~~from funds appropriated for this purpose; provided, however, that this provision~~
 54 ~~shall not be interpreted to limit the ability of the personnel director to provide~~
 55 ~~assistance to the board.]~~

56

~~[36.060. 1. In addition to the duties imposed upon it elsewhere in this~~
 2 ~~chapter, it shall be the duty of the board:~~

3 ~~(1) To make any investigation which it may consider desirable~~
 4 ~~concerning the administration of personnel subject to this law;~~

5 ~~(2) To hold regular meetings with appointing authorities to propose~~
 6 ~~methods of resolving general personnel problems;~~

7 ~~(3) To make annual reports, and such special reports as it considers~~
 8 ~~desirable, to the governor and the general assembly regarding personnel~~
 9 ~~administration in the state service and recommendations there. These special~~
 10 ~~reports shall evaluate the effectiveness of the personnel division and the~~
 11 ~~appointing authority in their operations under this law;~~

12 ~~(4) To make such suggestions and recommendations to the governor and~~
 13 ~~the director relating to the state's employment policies as will promote morale,~~
 14 ~~efficiency and uniformity in compensation of the various employees in the state~~
 15 ~~service;~~

16 ~~(5) To promulgate rules and regulations to ensure that no applicant or~~
 17 ~~employee is discriminated against on the basis of race, creed, color, religion,~~
 18 ~~national origin, sex, ancestry or handicap.~~

19 ~~2. No rule or portion of a rule promulgated under the authority of this~~
 20 ~~chapter shall become effective unless it has been promulgated pursuant to the~~
 21 ~~provisions of section 536.024.]~~
 22

~~[36.070. 1. The board shall have power to prescribe such rules and~~
 2 ~~regulations not inconsistent with the provisions of this chapter as it deems~~
 3 ~~suitable and necessary to carry out the provisions of this chapter. Such rules and~~
 4 ~~regulations shall be effective when filed with the secretary of state as provided~~
 5 ~~by law.~~

6 ~~2. The board shall prescribe by rule the procedures for employment and~~
 7 ~~promotion in accordance with the provisions of this chapter.~~

8 ~~3. The board shall determine by rule the procedures for and causes of~~
 9 ~~disciplinary actions including termination, demotion and suspension of~~
 10 ~~employees subject to this chapter which regulations shall be consistent with the~~
 11 ~~provisions of this law.]~~
 12

~~[36.100. 1. The director shall ascertain the duties, authority and~~
 2 ~~responsibilities of all positions subject to this chapter. After consultation with~~
 3 ~~the appointing authorities, the director shall prepare and recommend to the board,~~
 4 ~~and maintain on a continuing basis, a position classification plan, which shall~~
 5 ~~group all positions in the classified service in classes, based on their duties,~~
 6 ~~authority and responsibilities. Except as provided in subsection 2 of this section,~~
 7 ~~the position classification plan shall set forth, for each class of positions, a class~~
 8 ~~title and a statement of the duties, authority and responsibilities thereof, and the~~
 9 ~~qualifications that are necessary or desirable for the satisfactory performance of~~
 10 ~~the duties of the class; provided, that no plan shall be adopted which prohibits the~~
 11 ~~substitution of experience for education for each class of positions, except that,~~
 12 ~~the board may determine that there is no equivalent substitution in particular~~
 13 ~~cases. Classifications should be sufficiently broad in scope to include as many~~
 14 ~~comparable positions as possible both on an intra- and inter-departmental basis,~~
 15 ~~including both merit and nonmerit agencies.~~

16 ~~2. The classification plan may group management positions with similar~~
 17 ~~levels of responsibility or expertise into broad classification bands.~~

18 ~~3. The director shall require an initial and ongoing review of the number~~
 19 ~~of classifications in each division of service and shall, in consultation with the~~
 20 ~~agencies, eliminate and combine classes when possible, taking into consideration~~
 21 ~~the recruitment, examination, selection and compensation of personnel in the~~
 22 ~~various classes.]~~
 23

~~[36.110. After consultation with appointing authorities, the director shall~~
 2 ~~allocate each position in the classified service to the appropriate class therein on~~
 3 ~~the basis of its duties, authority and responsibilities. The director may delegate~~
 4 ~~allocation authority to the appointing authorities for positions in classes in their~~

5 divisions of service within standards and limits which have been developed in
6 consultation with and agreed to by the appointing authorities. Any employee
7 affected by the allocation of a position to a class, whether by the director or by
8 the appointing authority, shall, after filing with the director a written statement
9 setting forth reasons for requesting a consideration thereof, be given a reasonable
10 opportunity to be heard thereon by the director.]
11

2 ~~[36.120. 1. Before establishing a new position in divisions of the service~~
3 ~~subject to this chapter, or before making any permanent and substantial change~~
4 ~~of the duties, authority or responsibilities of a position subject to this chapter, an~~
5 ~~appointing authority shall notify the director in writing of the appointing~~
6 ~~authority's intention to do so, except where the positions may be allocated by the~~
7 ~~appointing authority.~~

8 ~~2. The director may at any time allocate any new position to a class, or~~
9 ~~change the allocation of any position to a class, or recommend to the board~~
10 ~~changes in the classification plan. Any change in the classification plan~~
11 ~~recommended by the director shall take effect when approved by the board, or on~~
12 ~~the ninetieth day after it is recommended to the board if prior thereto the board~~
13 ~~has not approved it. In case of necessity requiring the immediate establishment~~
14 ~~of a new class, the director may establish such a class on an interim basis pending~~
15 ~~approval of the class by the board as recommended by the director.~~

16 ~~3. When the allocation of a position to a class is changed, the director~~
17 ~~shall notify the appointing authority. If allocation authority is delegated, the~~
18 ~~appointing authority shall notify the director of any changes in the allocation. If~~
19 ~~the position is filled at the time of reallocation to a class, the appointing authority~~
20 ~~shall immediately notify the incumbent of the position regarding the allocation~~
21 ~~change. If the incumbent does not agree with the new allocation, the incumbent~~
22 ~~may, under conditions specified in the rules, submit to the director a request for~~
23 ~~a review of the allocation of the position.~~

24 ~~4. If any change is made in the classification plan by which a class of~~
25 ~~positions is divided, altered, or abolished, or classes are combined, the director~~
26 ~~shall forthwith reallocate the positions affected to their appropriate classes in the~~
27 ~~amended classification plan. An employee who is occupying a position~~
28 ~~reallocated to a different class shall, subject to the regulations, be given the same~~
29 ~~status in the new class as previously held in the class from which his or her~~
30 ~~position is reallocated. The director may require that the employee achieve a~~
31 ~~satisfactory grade on a noncompetitive test of fitness for the class to which his or~~
32 ~~her position has been reallocated.~~

33 ~~5. After a class of positions has been approved by the board, the director~~
34 ~~is authorized to make such changes in the class title or in the statement of duties~~
35 ~~and qualifications for the class as the director finds necessary for current~~
~~maintenance of the classification plan; provided, however, that changes which~~

36 ~~materially affect the nature and level of a class or which involve a change in~~
37 ~~salary range for the class shall be approved by the board.]~~
38

2 ~~[36.130. Following the adoption of the classification plan and the~~
3 ~~allocation of classes therein of positions in the classified service, the class titles~~
4 ~~set forth therein shall be used to designate such positions in all official records,~~
5 ~~vouchers, payrolls, and communications. No person shall be appointed to, or~~
6 ~~employed in, a position in divisions of the service subject to this law under a~~
7 ~~class title which has not been approved by the director as appropriate to the duties~~
8 ~~to be performed.]~~

2 ~~[36.140. 1. After consultation with appointing authorities and the state~~
3 ~~fiscal officers, and after a public hearing, the director shall prepare and~~
4 ~~recommend to the board a pay plan for all classes subject to this chapter. The pay~~
5 ~~plan shall include, for each class of positions, a minimum and a maximum rate,~~
6 ~~and such provision for intermediate rates as the director considers necessary or~~
7 ~~equitable. The pay plan may include provision for grouping of management~~
8 ~~positions with similar levels of responsibility or expertise into broad~~
9 ~~classification bands for purposes of determining compensation and for such~~
10 ~~salary differentials and other pay structures as the director considers necessary or~~
11 ~~equitable. In establishing the rates, the director shall give consideration to the~~
12 ~~experience in recruiting for positions in the state service, the rates of pay~~
13 ~~prevailing in the state for the services performed, and for comparable services in~~
14 ~~public and private employment, living costs, maintenance, or other benefits~~
15 ~~received by employees, and the financial condition and policies of the state.~~
16 ~~These considerations shall be made on a statewide basis and shall not make any~~
17 ~~distinction based on geographical areas or urban and rural conditions. The pay~~
18 ~~plan shall take effect when approved by the board and the governor, and each~~
19 ~~employee appointed to a position subject to this chapter after the adoption of the~~
20 ~~pay plan shall be paid according to the provisions of the pay plan for the position~~
21 ~~in which he or she is employed; provided, that the commissioner of~~
22 ~~administration certifies that there are funds appropriated and available to pay the~~
23 ~~adopted pay plan. The pay plan shall also be used as the basis for preparing~~
24 ~~budget estimates for submission to the legislature insofar as such budget~~
25 ~~estimates concern payment for services performed in positions subject to this~~
26 ~~chapter. Amendments to the pay plan may be recommended by the director from~~
27 ~~time to time as circumstances require and such amendments shall take effect~~
28 ~~when approved as provided by this section. The conditions under which~~
29 ~~employees may be appointed at a rate above the minimum provided for the class,~~
30 ~~or advance from one rate to another within the rates applicable to their positions,~~
31 ~~shall be determined by the regulations.~~

32 ~~2. Any change in the pay plan shall be made on a uniform statewide~~
~~basis. No employee in a position subject to this chapter shall receive more or less~~

33 compensation than another employee solely because of the geographical area in
 34 which the employee lives or works.]

35

~~[36.160. 1. No person shall make any false statement, certificate, mark,
 2 rating or report with regard to any test, certification or appointment made under
 3 any provision of this chapter or in any manner commit or attempt to commit any
 4 fraud preventing the impartial execution of this law and the regulations.~~

~~5 2. No person shall, directly or indirectly, give, render, pay, offer, solicit
 6 or accept any money, service or other valuable consideration for or on account
 7 of any appointment, proposed appointment, promotion or proposed promotion to,
 8 or any advantage in, a position subject to this law.~~

~~9 3. No employee of the personnel division, examiner, or other person shall
 10 defeat, deceive or obstruct any person in this right to examination, eligibility,
 11 certification or appointment under this law, or furnish to any person any special
 12 or secret information for the purpose of affecting the rights or prospects of any
 13 person with respect to employment in a division of service subject to this law.
 14 Any person who shall violate any provision of this section shall be guilty of a
 15 misdemeanor.]~~

16

~~[36.170. 1. The director shall from time to time conduct such open
 2 competitive and promotional examinations as the director considers necessary.
 3 The examinations shall be of such character as to determine the relative
 4 qualifications, fitness and ability of the persons tested to perform the duties of the
 5 class for which a register is to be established. No question shall be so framed as
 6 to elicit information concerning the political or religious opinions or affiliations
 7 of an applicant.~~

~~8 2. Agencies may request authority from the director to administer
 9 examinations for all positions, in accordance with rules adopted by the board.
 10 When such a request is approved, the director, in accordance with rules
 11 established by the board, shall establish standards and guidelines to be followed.~~

~~12 3. Pursuant to rules promulgated by the board, appointing authorities may
 13 request that the division of personnel administer promotional examinations
 14 limited to those already employed by the state or within the department or
 15 division of service involved.~~

~~16 4. All examinations conducted by the director shall be conducted in a
 17 location which is fully accessible to persons with disabilities or if such a facility
 18 is not available in a given location for such regular examinations, a special
 19 examination will be arranged upon request of an applicant with a disability in a
 20 facility which is fully accessible.]~~

21

~~[36.180. 1. The standards of education or experience in the classification
 2 plan for each class shall be established on the basis of specified knowledge, skills
 3 and abilities. Admission to examinations shall be open to all persons who~~

4 possess the qualifications and who may be lawfully appointed to a position in the
 5 class for which a register is to be established. The regulations may also require
 6 that applicants achieve at least a satisfactory grade in each progressive part of the
 7 examination in order to be admitted to subsequent parts of the examination or to
 8 receive a final passing score.

9 ~~2. To ensure competitive equality between the hearing impaired or the~~
 10 ~~blind and persons not so disabled, the applicant may request from the director the~~
 11 ~~furnishing of a certified interpreter for the hearing impaired or an amanuensis or~~
 12 ~~a reader for the blind when necessary, and the furnishing of a place to take such~~
 13 ~~examination, or such other similar prerequisites to ensure equality in such~~
 14 ~~examination.~~

15 ~~3. The director may reject the application of any person for admission to~~
 16 ~~an examination, strike the name of any person from the register, refuse to certify~~
 17 ~~the name of any person, or withdraw the certification of a person if the director~~
 18 ~~finds that the person lacks any of the qualifications, has been convicted of a crime~~
 19 ~~which raises questions about his or her qualifications, has been dismissed from~~
 20 ~~the public service for delinquency, has made a false statement of a material fact~~
 21 ~~or practiced or attempted to practice any fraud or deception, in his or her~~
 22 ~~application or examination or in attempting to secure appointment.~~

23 ~~4. The director may take such action as is authorized in subsection 3 of~~
 24 ~~this section if the director finds the person has a health condition or disability~~
 25 ~~which would clearly prohibit the person from performing the duties required for~~
 26 ~~the position for which the applicant has applied.]~~
 27

~~[36.190. 1. The director shall give public notice of each open~~
 2 ~~competitive and promotional examination sufficiently in advance of such~~
 3 ~~examination and sufficiently widespread in scope to afford persons who are~~
 4 ~~interested in participating in the examination a reasonable opportunity to apply.~~
 5 ~~The time elapsing between the official announcement of an examination and the~~
 6 ~~holding of such examination shall be not less than two calendar weeks, except~~
 7 ~~that a lesser period of advance notice may be permissible under the regulations~~
 8 ~~when the examination is conducted under the provisions of subsection 3 of~~
 9 ~~section 36.320 or when the needs of the service pursuant to subsection 1 of~~
 10 ~~section 36.260 require special notices.~~

11 ~~2. Each official notice of an examination shall state the title, duties, pay~~
 12 ~~and qualifications of positions for which the examination is to be held; the time,~~
 13 ~~place and manner of making application for admission to such examination; and~~
 14 ~~any other information which the director considers pertinent and useful.~~

15 ~~3. The director shall ensure that the official announcement of an~~
 16 ~~examination is given the widest distribution necessary to inform qualified persons~~
 17 ~~that the examination is being given. The director may use any means that the~~
 18 ~~director considers necessary to inform qualified persons about the examination.~~
 19 ~~These include, but are not limited to, paid advertisements in newspapers;~~

20 periodicals, electronic media and announcements to educational institutions. The
21 director may also publish a periodic bulletin containing information about
22 examinations to be sent to subscribers at a price approximating the cost of
23 publication.]
24

2 [36.200. The methods for rating the various parts of the examinations and
3 the minimum satisfactory grade shall be determined by the regulations. Each
4 person who takes any examination shall be given written notice as to whether he
5 passed or failed the examination, and he shall be entitled to inspect his ratings
6 and examination papers, but examination papers shall not be open to the general
7 public. A manifest error in rating an examination which affects the relative
8 ranking of persons shall be corrected if called to the attention of the director
9 within thirty days after the establishment of the register, but such correction shall
10 not invalidate any appointment previously made from such a register unless it is
11 established that the error was made in bad faith and with intent to deprive a
12 person of certification.]

2 [36.210. Other provision of the law to the contrary notwithstanding,
3 special procedures for the examination and selection of personnel are authorized
4 as follows:

4 ————— (1) For positions involving unskilled or semiskilled labor, or domestic,
5 attendant, custodial or comparable work, when the character or place of the work
6 makes it impracticable to supply the needs of the service by appointments made
7 in accordance with the procedure prescribed in other provisions of this chapter,
8 the director, in accordance with the regulations, shall authorize the use of such
9 other procedures as the director determines to be appropriate in order to meet the
10 needs of the service, while assuring the selection of such employees on the basis
11 of merit and fitness. Such procedures, subject to the regulations, may include the
12 testing of applicants and maintenance of registers of eligibles by localities; the
13 testing of applicants, singly or in groups, at periodic intervals, at the place of
14 employment or elsewhere, after such notice as the director considers adequate;
15 the registration of applicants who pass a noncompetitive examination or submit
16 satisfactory evidence of their qualifications, and appointment of registered
17 applicants; or any variation or combination of the foregoing or other suitable
18 methods. When the director finds noncompetitive registration and selection
19 procedures to be appropriate, the director is hereby authorized to delegate to each
20 appointing authority the responsibility for such registration and for selection and
21 appointment of registered applicants. When such delegation is made, the director
22 shall establish the necessary guidelines and standards for appointing authorities
23 and shall require such reports and perform such audits as the director deems
24 necessary to ensure compliance with these guidelines and standards.

25 ————— (2) The regulations may prescribe the conditions under which interns,
26 trainees, and participants in special state or federal training, rehabilitation, and

27 employment programs who successfully complete a period of internship or
 28 training may be appointed to a permanent position subject to this chapter after
 29 passing a noncompetitive qualifying examination.

30 ~~————— (3) The board may, in accordance with the regulations, waive competitive~~
 31 ~~examinations for a class or position if it finds that the supply of qualified~~
 32 ~~applicants is generally insufficient to justify competitive examinations and~~
 33 ~~provide meaningful competition in the selection of employees. A request that~~
 34 ~~competitive examination be waived for a particular class or position pursuant to~~
 35 ~~this provision may be made to the board by the director or an appointing~~
 36 ~~authority. The board shall review determinations pursuant to this provision at~~
 37 ~~least annually. Upon waiving such examinations, the regulations of the board~~
 38 ~~shall provide for the registration and appointment of applicants who present~~
 39 ~~satisfactory evidence of their qualifications.~~

40 ~~————— (4) Upon the approval of the director in accordance with the regulations~~
 41 ~~of the board, appointing authorities may promote employees on the basis of a~~
 42 ~~qualifying noncompetitive examination. Such noncompetitive promotions may~~
 43 ~~be approved in, but are not necessarily limited to, situations in which the~~
 44 ~~promotion represents a normal progression to the next higher level within an~~
 45 ~~established occupational job series, or where the director determines that an~~
 46 ~~employee has been an assistant, understudy or trainee for the position involved~~
 47 ~~or otherwise has had such specific experience or training that a noncompetitive~~
 48 ~~promotion to the position in question is to the best interests of the state service.~~

49 ~~————— (5) Appointing authorities may request, pursuant to regulations~~
 50 ~~established by the board, to conduct alternative promotional procedures for~~
 51 ~~positions and classes in their divisions of service. The board shall approve such~~
 52 ~~alternative procedures which it finds to be in keeping with merit principles and~~
 53 ~~the best interest of the state service. Upon approval, the appointing authority~~
 54 ~~shall be responsible to conduct promotional procedures in accordance with the~~
 55 ~~board's approval and without favoritism, prejudice or discrimination. The board~~
 56 ~~may withdraw approval pursuant to this provision if it finds that this~~
 57 ~~responsibility has not been met.~~

58 ~~————— (6) Where appropriate, the director may establish registers by locality for~~
 59 ~~selected classes.]~~

60

2 ~~[36.220. 1. In any competitive examination given for the purpose of~~
 3 ~~establishing a register of eligibles, veterans, disabled veterans, surviving spouses~~
 4 ~~and spouses of disabled veterans shall be given preference in appointment and~~
 5 ~~examination in the following manner:~~

6 ~~————— (1) A veteran, or the surviving spouse of any veteran whose name~~
 7 ~~appears on a register of eligibles who made a passing grade, shall have five points~~
 8 ~~added to his or her final grade, and his or her rank on the register shall be~~
 9 ~~determined on the basis of this augmented grade.~~

9 ~~————— (2) The spouse of a disabled veteran, whose name appears on a register~~
10 ~~of eligibles and who made a passing grade, shall have five points added to his or~~
11 ~~her final grade, and his or her rank on the register shall be determined on the~~
12 ~~basis of this augmented grade. This preference shall be given only if the veteran~~
13 ~~is not employed in the state service and the disability renders him or her~~
14 ~~unqualified for entrance into the state service.~~

15 ~~————— (3) A disabled veteran, whose name appears on a register of eligibles and~~
16 ~~who made a passing grade, shall have ten points added to his or her final grade,~~
17 ~~and his or her rank on the register shall be determined on the basis of this~~
18 ~~augmented grade.~~

19 ~~————— 2. Any person who has been honorably discharged from the Armed~~
20 ~~Forces of the United States shall receive appropriate credit for any training or~~
21 ~~experience gained therein in any examination if the training or experience is~~
22 ~~related to the duties of the class of positions for which the examination is given.]~~
23

2 ~~[36.225. 1. In any competitive examination given for the purpose of~~
3 ~~establishing a register of eligibles, a parental preference shall be given to persons~~
4 ~~who were previously employed by the state but terminated such employment to~~
5 ~~care for young children. This preference shall be given only for persons who~~
6 ~~were full-time homemakers and caretakers of children under the age of ten and~~
7 ~~were not otherwise gainfully employed for a period of at least two years:~~

8 ~~————— 2. If the name of a person eligible for a parental preference appears on a~~
9 ~~register of eligibles who made a passing grade, such person shall have five points~~
10 ~~added to the final grade, and the rank of such person on the register shall be~~
11 ~~determined on the basis of this augmented grade.]~~

2 ~~[36.240. 1. Whenever an appointing authority proposes to fill one or~~
3 ~~more vacancies in a class of positions subject to this chapter, the appointing~~
4 ~~authority shall submit to the director, as far in advance of the desired appointment~~
5 ~~date as possible, a requisition for the certification of eligible persons from an~~
6 ~~appropriate register. The requisition shall contain information as required by the~~
7 ~~director. The appointing authority, subject to conditions specified in the~~
8 ~~regulations, may also designate special requirements of domicile or the~~
9 ~~possession of special skills. If the director finds that such requirements would~~
10 ~~contribute substantially to effective performance of the duties involved,~~
11 ~~certification may be limited to persons on the register who meet such~~
12 ~~requirements:~~

13 ~~————— 2. When vacancies to be filled are in a class from which employees have~~
14 ~~been laid off, or demoted in lieu of layoff, certification shall be limited to~~
15 ~~previous employees until all employees of a division of service on the appropriate~~
16 ~~reinstatement register have been reinstated in order of rank on the register.~~
17 ~~Thereafter, certification from reinstatement and other registers shall be in~~
accordance with the provisions of this section and the regulations of the board.

- 18 ~~3. Upon a request for certification, the director shall certify for selection~~
19 ~~the names of the top fifteen ranking available eligibles or the names of available~~
20 ~~eligibles comprising the top ranking fifteen percent of available eligibles,~~
21 ~~whichever is greater, plus such additional eligibles as have a final rating equal to~~
22 ~~that of the last certified eligible. Upon request of the appointing authority, the~~
23 ~~director may also certify, for each additional vacancy to be filled from the same~~
24 ~~certification, the next five ranking available eligibles plus such additional~~
25 ~~eligibles as have a final rating equal to that of the last certified eligible.~~
- 26 ~~4. If the director finds that the nature of the examination process and the~~
27 ~~type of positions involved justify alternative procedures for filling vacancies, the~~
28 ~~board may by rule prescribe such procedures which may include certification by~~
29 ~~broad category of examination rating or within a specified range of scores.~~
- 30 ~~5. When a position in divisions of the service subject to this chapter is~~
31 ~~limited in duration, certification may be limited to the highest ranking eligible~~
32 ~~who will accept employment under such conditions. A person appointed to a~~
33 ~~position under such conditions shall retain his or her relative position on the~~
34 ~~register and shall be eligible for certification to a permanent position in the~~
35 ~~regular order until the register itself has expired. If a temporary position is~~
36 ~~limited to less than ninety calendar days' duration, the appointing authority may~~
37 ~~fill the position by temporary appointment in the manner provided in section~~
38 ~~36.270.~~
- 39 ~~6. The rules shall prescribe the conditions under which the name of an~~
40 ~~eligible who has been certified to and considered for appointment by an~~
41 ~~appointing authority but has not been appointed may be withheld from further~~
42 ~~certification to such appointing authority. The eligible shall be entitled to retain~~
43 ~~his or her place on the eligible register during the life of the register, and shall be~~
44 ~~certified in the order of his or her rank to other vacancies in the class under other~~
45 ~~appointing authorities.~~
- 46 ~~7. Eligibles who are not available for appointment when offered~~
47 ~~certification shall be granted a waiver of certification upon their request.~~
48 ~~Eligibles who do not respond within a reasonable period to a notice of~~
49 ~~certification may at the discretion of the director be dropped from the eligible~~
50 ~~register.~~
- 51 ~~8. Any person who has obtained regular status in a class of positions~~
52 ~~subject to subsection 1 of section 36.030 and who has resigned from state service~~
53 ~~in good standing or who has accepted demotion or transfer for personal reasons~~
54 ~~may be reemployed without competitive certification in the same or comparable~~
55 ~~class at the discretion of the appointing authority and under conditions specified~~
56 ~~in the regulations. Any person who has successfully served at least one year in~~
57 ~~a position not subject to subsection 1 of section 36.030, but which is subject to~~
58 ~~section 36.031, and who has resigned from state service in good standing or who~~
59 ~~has accepted demotion or transfer for personal reasons, may be reemployed~~
60 ~~without competitive certification in the same or comparable class at the discretion~~

61 of the appointing authority and under conditions specified in the regulations,
62 provided he or she possesses the qualifications and has successfully completed
63 a noncompetitive examination for the class involved. No one shall be
64 reemployed pursuant to this section until reinstatement has first been offered to
65 all eligibles on the reinstatement register for the class and division of service
66 involved:

67 ~~9. Preference in certification and appointment from promotional registers~~
68 ~~or registers of eligibles under conditions specified in the regulations, may be~~
69 ~~given to employees of the division of service in which the vacancy occurs.]~~
70

2 ~~[36.250. 1. Every person appointed to a permanent position subject to~~
3 ~~this chapter shall be required to successfully complete a working test during a~~
4 ~~probationary period which shall be of sufficient length to enable the appointing~~
5 ~~authority to observe the employee's ability to perform the various duties~~
6 ~~pertaining to the position:~~

7 ~~2. The board shall by regulation establish the standards governing normal~~
8 ~~length of the probationary period for different classes of positions. The~~
9 ~~regulations shall specify the criteria for reducing or lengthening the probationary~~
10 ~~period for individuals within the various classes. The minimum probationary~~
11 ~~period shall be three months. The maximum probationary period shall be~~
12 ~~eighteen months for top professional personnel and personnel with substantial~~
13 ~~supervisory or administrative responsibilities, and twelve months for all others.~~
14 ~~However, a probationary period shall not be required for an employee reinstated~~
15 ~~within two years after layoff or demotion in lieu of layoff by the same division~~
16 ~~of service:~~

17 ~~3. Prior to the expiration of an employee's probationary period, the~~
18 ~~appointing authority shall notify the director and the employee in writing whether~~
19 ~~the services of the employee have been satisfactory and whether the appointing~~
20 ~~authority will continue the employee in the employee's position. No employee~~
21 ~~shall be paid for work performed after the expiration of the employee's~~
22 ~~probationary period unless the appointing authority has notified the director and~~
23 ~~the employee that the employee will be given a regular appointment or, if~~
24 ~~applicable, have the probationary period extended:~~

25 ~~4. At any time during the probationary period the appointing authority~~
26 ~~may remove an employee if, in the opinion of the appointing authority, the~~
27 ~~working test indicates that the employee is unable or unwilling to perform the~~
28 ~~duties of the position satisfactorily. Upon removal, the appointing authority shall~~
29 ~~forthwith report to the director and to the employee removed, in writing, the~~
30 ~~appointing authority's action and the reason thereof. No more than three~~
31 ~~employees shall be removed successively from the same position during their~~
32 ~~probationary periods without the approval of the director. An employee who is~~
33 ~~found by the director to have been appointed through fraud shall be removed~~
~~within ten days of notification of the appointing authority:~~

34 ~~5. If an employee is removed from the employee's position during, or at~~
35 ~~the end of, the employee's probationary period, and the director determines that~~
36 ~~the employee is suitable for appointment to another position, the employee's~~
37 ~~name shall be restored to the register from which it was certified. An employee~~
38 ~~appointed from a promotional register who does not successfully complete the~~
39 ~~employee's probationary period shall, if otherwise eligible for retention in~~
40 ~~employment, be reinstated in a position in the class occupied by the employee~~
41 ~~immediately prior to the employee's promotion or in a comparable class.]~~
42

2 ~~[36.260. 1. When an appointing authority finds it essential to fill a~~
3 ~~vacancy in a position subject to this chapter, and, with at least thirty days' notice~~
4 ~~of the vacancy, the director is unable to certify the names of at least ten available~~
5 ~~eligibles, the director may authorize the appointing authority to fill the vacancy~~
6 ~~by means of a provisional appointment. The appointing authority shall forthwith~~
7 ~~submit a statement containing the name of a person nominated by the appointing~~
8 ~~authority for provisional appointment to the position, which statement shall~~
9 ~~contain a description of the qualifications of training and experience possessed~~
10 ~~by that person, and such other information as may be required by the regulations.~~
11 ~~If such nominee is found by the director to possess experience and training which~~
12 ~~meet the qualifications for the position, the director may approve the provisional~~
13 ~~appointment.~~

14 ~~2. No provisional appointment shall be made without the approval of the~~
15 ~~director.~~

16 ~~3. The duration of a provisional appointment shall be the same as the~~
17 ~~duration of the probationary period established for the position. A provisional~~
18 ~~appointee who successfully completes the working test of the probationary period~~
19 ~~may receive a regular appointment without examination.]~~

2 ~~[36.270. When an emergency makes it necessary to fill a position subject~~
3 ~~hereto immediately in order to prevent stoppage of public business, or loss,~~
4 ~~hazard, or serious inconvenience to the public, and it is impracticable to fill such~~
5 ~~a position under any other provision of this chapter, an appointing authority or~~
6 ~~a properly authorized subordinate employee may appoint any qualified person to~~
7 ~~such a position without prior approval of the director. Any such person shall be~~
8 ~~employed only during such an emergency, and any such appointment shall expire~~
9 ~~automatically ninety calendar days from the date of the appointment. The~~
10 ~~appointing authority shall report each emergency appointment to the director as~~
11 ~~soon as possible after date of such appointment and the report shall contain the~~
12 ~~name of the person appointed, the date of appointment, and the reasons which~~
13 ~~made the appointment necessary. No individual may be given more than one~~
14 ~~such appointment in any twelve-month period in the same division of service.]~~

2 ~~[36.280. 1. An appointing authority may at any time assign an employee~~
 3 ~~from one position to another position in the same class in the appointing~~
 4 ~~authority's division; except that, transfers of employees made because of a layoff,~~
 5 ~~or shortage of work or funds which might require a layoff, shall be governed by~~
 6 ~~the regulations. Upon making such an assignment the appointing authority shall~~
 7 ~~forthwith give written notice of the appointing authority's action to the director.~~
 8 ~~A transfer of an employee from a position in one division to a position in the~~
 9 ~~same class in another division may be made with the approval of the director and~~
 10 ~~of the appointing authorities of both divisions. No employee shall be transferred~~
 11 ~~from a position in one class to a position in another class of a higher rank or for~~
 12 ~~which there are substantially dissimilar requirements for appointment unless the~~
 13 ~~employee is appointed to such latter position after certification of the employee's~~
 14 ~~name from a register in accordance with the provisions of this chapter. Any~~
 15 ~~change of an employee from a position in one class to a position in a class of~~
 16 ~~lower rank shall be considered a demotion and shall be made only in accordance~~
 17 ~~with the procedure prescribed by section 36.380 for cases of dismissal. An~~
 18 ~~employee thus involuntarily demoted shall have the right to appeal to the~~
 19 ~~administrative hearing commission pursuant to section 36.390.~~

20 ~~2. An employee who has successfully served at least one year in a~~
 21 ~~position not subject to subsection 1 of section 36.030, but which is subject to~~
 22 ~~section 36.031, may be transferred to a position subject to subsection 1 of section~~
 23 ~~36.030 in the same class with the approval of the director and of the appointing~~
 24 ~~authorities of both divisions, provided he or she possesses the qualifications and~~
 25 ~~has successfully completed a noncompetitive examination for the position~~
 26 ~~involved.]~~

2 ~~[36.290. Any person in a position subject to this law who may be~~
 3 ~~transferred or promoted to a position exempted under section 36.030, may, by~~
 4 ~~action of the board, at the conclusion of his occupancy of such position, be~~
 5 ~~restored to his previous status under this law.]~~

2 ~~[36.300. Vacancies in the divisions of the service subject thereto shall be~~
 3 ~~filled only by:~~

- 3 ~~(1) Appointment of an eligible certified by the director pursuant to~~
 4 ~~section 36.240;~~
 5 ~~(2) Provisional appointment pursuant to section 36.260;~~
 6 ~~(3) Emergency appointment pursuant to section 36.270;~~
 7 ~~(4) Transfer or demotion of a regular employee pursuant to section~~
 8 ~~36.280;~~
 9 ~~(5) Promotion pursuant to section 36.210 or 36.240;~~
 10 ~~(6) Reemployment as provided in section 36.240; or~~
 11 ~~(7) Other appointment authorized in this chapter.]~~

12

2 ~~[36.310. The director shall establish and maintain reinstatement registers,~~
3 ~~which shall contain the names of persons who have been regular employees and~~
4 ~~who have been laid off in good standing, or demoted in lieu of layoff, due to~~
5 ~~shortage of work or funds, or the abolition of a position or material change in~~
6 ~~duties or organization. The order in which names shall be placed on a~~
7 ~~reinstatement register, and the length of time for which a name shall remain on~~
8 ~~such register, shall be established by the regulations. The director may remove~~
9 ~~the name of a person from a reinstatement register, or refuse to certify his name~~
10 ~~for a position if he finds, after giving him notice and an opportunity to be heard,~~
11 ~~that such person is not qualified to perform satisfactorily the necessary duties.]~~

2 ~~[36.320. 1. The director shall establish and maintain such promotional~~
3 ~~registers and registers of eligibles for the various classes of positions subject to~~
4 ~~this chapter as the director deems necessary or desirable to meet the needs of the~~
5 ~~service. On each promotional register and register of eligibles, the eligibles shall~~
6 ~~be ranked in the order of their ratings given for the purpose of establishing or~~
7 ~~replenishing such a register.~~

8 ~~2. The time during which a promotional register or register of eligibles~~
9 ~~remains in force shall be one year from the date on which it is officially~~
10 ~~established by the director; except that, before the expiration of a register, the~~
11 ~~director may by order extend the time during which such register remains in force~~
12 ~~when the needs of the service so require. In no event shall the total period during~~
13 ~~which a register is in force exceed three years from the date on which the register~~
14 ~~was originally established. The director may consolidate or cancel promotional~~
15 ~~registers and registers of eligibles as the needs of the service require, and as~~
16 ~~authorized by the regulations.~~

17 ~~3. In circumstances where there is a continuous need for substantial~~
18 ~~numbers of eligibles for a certain class of positions, the director may, after first~~
19 ~~establishing such a register, replenish the register from time to time by inserting~~
20 ~~the names of additional eligibles who are found to be qualified on the basis of~~
21 ~~determinations similar to those used as a basis for establishing the original~~
22 ~~register. The method for establishing, replenishing, and cancelling such a register~~
23 ~~shall be determined by the regulations.]~~

2 ~~[36.330. 1. No state disbursing or auditing officer shall make or approve~~
3 ~~or take any part in making or approving any payment for personal service to any~~
4 ~~person employed in a division of service subject to this chapter unless such~~
5 ~~person is and employed in accordance with the provisions of this chapter and the~~
6 ~~regulations adopted pursuant to this chapter. Changes in employment conditions~~
7 ~~or status which are governed by this chapter and the regulations adopted pursuant~~
8 ~~to this chapter shall be subject to the same conditions. The director shall~~
 ~~establish the procedures necessary to secure compliance with this section.~~

9 ~~2. Any sum paid contrary to any provision of this chapter or of any~~
10 ~~regulations adopted pursuant to this chapter may be recovered for the state in an~~
11 ~~action maintained by any citizen of Missouri, from any officer who made,~~
12 ~~approved or authorized such payment or who signed or countersigned a voucher,~~
13 ~~payroll, check or warrant for such payment, or from the sureties on the official~~
14 ~~bond of any such officer. All moneys recovered in any such action shall be paid~~
15 ~~into the state treasury. Any citizen of Missouri may maintain a suit to restrain a~~
16 ~~disbursing officer from making any payment in contravention of any provision~~
17 ~~of this chapter, or of any regulations adopted pursuant to this chapter.~~

18 ~~3. If the director wrongfully withholds certification of any employee~~
19 ~~pursuant to this section, such employee may maintain a proceeding to compel the~~
20 ~~director to make the appropriate certification.]~~
21

~~[36.340. In cooperation with appointing authorities the director shall~~
2 ~~establish a system of service reports, which shall take into consideration, among~~
3 ~~other things, the employee's conduct, performance, and output. In such manner~~
4 ~~and with such weight as shall be provided in the regulations, ratings assigned to~~
5 ~~such service reports shall be considered in determining salary increases and~~
6 ~~decreases within the limits established by law and by the pay plan; as a factor in~~
7 ~~promotional examinations; as a factor in determining the order of layoff when~~
8 ~~forces must be reduced because of lack of work or funds, and the order in which~~
9 ~~names are to be placed on reinstatement registers; and as a means of discovering~~
10 ~~employees who should be demoted, transferred or dismissed. In such manner and~~
11 ~~at such time as the regulations may require, each appointing authority shall report~~
12 ~~to the director on the services of employees in his division. Any employee shall~~
13 ~~be given reasonable opportunity to inspect the records of the department which~~
14 ~~show the ratings assigned to his service reports.]~~
15

~~[36.350. The regulations shall provide for the hours of work, holidays,~~
2 ~~attendance, and leaves of absence in the various classes of positions subject to~~
3 ~~this law. They shall contain provisions for annual leave, sick leave, and special~~
4 ~~leaves of absence, with or without pay, or with reduced pay, and may allow~~
5 ~~special extended leaves for employees disabled through injury or illness arising~~
6 ~~out of their employment, and the accumulation of annual leave and sick leave.~~
7 ~~Such regulations shall apply in all state agencies.]~~
8

~~[36.360. In accordance with the regulations, an appointing authority may~~
2 ~~lay off an employee in a position subject to this chapter whenever the appointing~~
3 ~~authority deems it necessary by reason of shortage of work or funds, or the~~
4 ~~abolition of a position or other material change in duties or organization. No~~
5 ~~regular employee shall be laid off while a person is employed on a provisional or~~
6 ~~temporary basis in the same class in that division. The seniority and ability of~~
7 ~~employees to do the remaining work shall be considered, in such manner as the~~

8 regulations shall provide, among the factors in determining the order of layoffs.
9 The appointing authority shall give written notice to the director of every
10 proposed layoff a reasonable time before the effective date thereof, and the
11 director shall take such action relating thereto as the director considers necessary
12 to secure compliance with the regulations. The name of every regular employee
13 so laid off shall be placed on the appropriate reinstatement register.]
14

2 [36.370. 1. An appointing authority may, for disciplinary purposes,
3 suspend without pay any employee in his division for such length of time as he
4 considers appropriate, not exceeding twenty working days in any twelve-month
5 period except that this limitation shall not apply in the event of a terminal
6 suspension given in conjunction with a dismissal. In case of a suspension, the
7 director shall be furnished with a statement in writing specifically setting forth
8 the reasons for such suspension. Upon request, a copy of such statement shall be
9 furnished to such employee. With the approval of the director, any employee
10 may be suspended for a longer period pending the investigation or trial of any
11 charges against him. Any regular employee who is suspended for more than five
12 working days shall have the right to appeal to the administrative hearing
13 commission as provided under section 36.390.

14 2. An appointing authority may not suspend without pay any employee
15 in his division who is a member of the National Guard and is engaged in the
16 performance of duty or training in the service of this state at the call of the
17 governor and as ordered by the adjutant general, but shall grant a leave of absence
18 from duty without loss of time, pay, regular leave, impairment of efficiency
19 rating, or of any other rights or benefits, to which otherwise entitled, and shall
20 pay that employee his salary or compensation for the entire period of absence for
21 that purpose.]

2 [36.380. An appointing authority may dismiss for cause any employee in
3 his division occupying a position subject hereto when he considers that such
4 action is required in the interests of efficient administration and that the good of
5 the service will be served thereby. No dismissal of a regular employee shall take
6 effect unless, prior to the effective date thereof, the appointing authority gives to
7 such employee a written statement setting forth in substance the reason therefor
8 and files a copy of such statement with the director. When it is not practicable
9 to give the notice of dismissal to an employee in person, it may be sent to the
10 employee by certified or registered mail, return receipt requested, at his last
11 mailing address as shown in the personnel records of the appointing authority.
12 Proof of refusal of the employee to accept delivery or the inability of postal
13 authorities to deliver such mail shall be accepted as evidence that the required
14 notice of dismissal has been given. If the director determines that the statement
15 of reasons for the dismissal given by the appointing authority shows that such
dismissal does not reflect discredit on the character or conduct of the employee;

16 he may, upon request of the employee, approve reemployment under section
17 36.240, in any class in which the employee has held regular status. Any regular
18 employee who is dismissed shall have the right to appeal to the administrative
19 hearing commission as provided under section 36.390.]
20

2 [36.390. — 1. — An applicant whose request for admission to any
3 examination has been rejected by the director may appeal to the administrative
4 hearing commission in writing within fifteen days of the mailing of the notice of
5 rejection by the director, and in any event before the holding of the examination.
6 The commission's decision on all matters of fact shall be final.

7 ————— 2. Applicants may be admitted to an examination pending a consideration
8 of the appeal, but such admission shall not constitute the assurance of a passing
9 grade in education and experience.

10 ————— 3. Any applicant who has taken an examination and who feels that he or
11 she has not been dealt with fairly in any phase of the examination process may
12 request that the director review his or her case. Such request for review of any
13 examination shall be filed in writing with the director within fifteen days after the
14 date on which notification of the results of the examination was mailed to the
15 applicant. A candidate may appeal the decision of the director in writing to the
16 administrative hearing commission. This appeal shall be filed with the
17 administrative hearing commission within fifteen days after date on which
18 notification of the decision of the director was mailed to the applicant. The
19 commission's decision with respect to any changes shall be final, and shall be
20 entered in the minutes. A correction in the rating shall not affect a certification
21 or appointment which may have already been made from the register.

22 ————— 4. An eligible whose name has been removed from a register for any of
23 the reasons specified in section 36.180 or in section 36.240 may appeal to the
24 administrative hearing commission for reconsideration. Such appeal shall be
25 filed in writing with the administrative hearing commission within fifteen days
26 after the date on which notification was mailed to the eligible. The commission,
27 after investigation, shall make its decision which shall be recorded in the minutes
28 and the eligible shall be notified accordingly by the director.

29 ————— 5. Any regular employee who is dismissed or involuntarily demoted for
30 cause or suspended for more than five working days may appeal in writing to the
31 administrative hearing commission within thirty days after the effective date
32 thereof, setting forth in substance the employee's reasons for claiming that the
33 dismissal, suspension or demotion was for political, religious, or racial reasons,
34 or not for the good of the service.

35 ————— 6. The provisions for appeals provided in subsection 5 of this section for
36 dismissals of regular merit employees may be adopted by nonmerit agencies of
37 the state for any or all employees of such agencies.

38 ————— 7. Agencies not adopting the provisions for appeals provided in
subsection 5 of this section shall adopt dismissal procedures substantially similar

39 to those provided for merit employees. However, these procedures need not
40 apply to employees in policy-making positions, or to members of military or law
41 enforcement agencies.

42 ~~8. Hearings under this section shall be deemed to be a contested case and
43 the procedures applicable to the processing of such hearings and determinations
44 shall be those established by chapter 536. Decisions of the administrative hearing
45 commission shall be final and binding subject to appeal by either party. Final
46 decisions of the administrative hearing commission pursuant to this subsection
47 shall be subject to review on the record by the circuit court pursuant to chapter
48 536.]~~

49

2 ~~[36.400. The administrative hearing commission, each commissioner and
3 the director shall have power to administer oaths, subpoena witnesses, and
4 compel the production of books and papers pertinent to any investigation or
5 hearing authorized by this law. Any person who shall fail to appear in response
6 to a subpoena or to answer any question or produce any books or papers pertinent
7 to any such investigation or hearing, or who shall knowingly give false testimony
8 therein, shall be guilty of a misdemeanor.]~~

8

2 ~~[36.410. If any employee in a position subject to this law shall willfully
3 refuse or fail to appear before any court or judge, any legislative committee, or
4 any officer, board or body authorized to conduct any hearing or inquiry, or having
5 appeared shall refuse to testify or answer any question relating to the affairs or
6 government of the state or the conduct of any state officer or employee on the
7 ground that his testimony or answers would tend to incriminate him, or shall
8 refuse to waive immunity from prosecution on account of any matter about which
9 he may be asked to testify at any such hearing or inquiry, he shall forfeit his
10 position and shall not be eligible for appointment to any position under the
11 provisions of this chapter.]~~

11

2 ~~[36.430. All officers and employees of the state and of municipalities and
3 political subdivisions of the state shall allow the personnel division the
4 reasonable use of public buildings under their control, and furnish heat, light and
5 furniture, for any examination, hearing or investigation authorized by this law.
6 The personnel division shall pay to a municipality or political subdivision the
7 reasonable cost of any such facilities furnished by it.]~~

7

2 ~~[36.440. 1. All officers and employees of the state under the provisions
3 of this chapter shall comply with and aid in all proper ways in carrying out the
4 provisions of this chapter and the regulations adopted thereunder. All officers
5 and employees shall furnish any records or information which the director or the
6 board may request for any purpose of this law.~~

5

6 ~~2. A state officer or employee under the provisions of this chapter who~~
7 ~~shall fail to comply with any provision of this chapter or of any regulation~~
8 ~~adopted thereunder shall be subject to all penalties and remedies now or hereafter~~
9 ~~provided by law for the failure of a public officer or employee to do any act~~
10 ~~required of him by law. The director may maintain such action or proceeding at~~
11 ~~law or in equity as he considers necessary or appropriate to secure compliance~~
12 ~~with this law and the regulations adopted thereunder.]~~
13

2 ~~[36.450. The costs incurred in the administration of this law shall be paid~~
3 ~~from the general revenue fund of this state; provided, however, that the director~~
4 ~~shall, and he is hereby authorized to, enter into agreements with agencies of the~~
5 ~~federal or state government which control grants of money to the state for the~~
6 ~~administration of state laws enacted pursuant to the federal Social Security Act~~
7 ~~or other federal laws or regulations whereby the actual costs incurred in~~
8 ~~connection with the examination, selection, promotion, transfer or discipline of~~
9 ~~employees of divisions of the service charged with the administration of said~~
10 ~~laws shall be paid, in whole or in part, from funds granted for the administration~~
11 ~~of such laws.]~~

2 ~~[36.460. Any person holding any position of employment covered by the~~
3 ~~provisions of this chapter who shall willfully violate any provision hereof shall~~
4 ~~forfeit his or her position as well as his or her eligibility rating and for a period~~
5 ~~of at least five years from and after the date of such violation shall be ineligible~~
6 ~~for appointment to or employment in any position covered by this law.]~~

2 ~~[36.470. 1. Whenever any employee of the state of Missouri, who is~~
3 ~~employed under the provisions of this chapter, is discharged from or shall~~
4 ~~voluntarily quit such employment, the head of the department or division~~
5 ~~employing the employee shall upon written request of the employee, if the~~
6 ~~employment has been for a period of at least ninety days, issue to the employee,~~
7 ~~upon his written request therefor, a letter setting forth the nature and character of~~
8 ~~service rendered by the employee, the duration thereof, and truly stating for what~~
9 ~~cause, if any, the employee has been discharged from or has quit such~~
10 ~~employment.~~

11 ~~2. The head of a department or division affected by this section, who~~
12 ~~refuses to comply with this section, is guilty of a misdemeanor, and upon~~
13 ~~conviction thereof shall be punished by a fine not to exceed one hundred dollars.~~

14 ~~3. There shall be no civil liability for refusing or failing to furnish the~~
15 ~~letter herein provided except for willful and malicious refusal to furnish such~~
16 ~~letter.]~~

2 ~~[36.500. The personnel division shall collect information, provide~~
3 ~~services, make studies and analyses as directed by the commissioner of~~

3 administration of personnel covered by the provisions of this chapter and other
 4 systems in the executive branch of state government and to perform any other
 5 service as directed by the commissioner or the governor to promote uniformity
 6 in employment conditions and compensation of state employees, provide aid to
 7 departments in personnel matters and to develop a career system of state service
 8 that will enable the state to utilize all its personnel in as efficient and effective a
 9 manner as possible without restrictions of department, agency or other entity of
 10 the executive branch of state government.]

11
 [36.510. 1. In addition to other duties specified elsewhere in this chapter,
 2 it shall be the duty of the director to perform the following functions in all
 3 agencies of state government:

4 ~~————— (1) Develop, initiate and implement a central training program for~~
 5 ~~personnel in agencies of state government and encourage and assist in the~~
 6 ~~development of such specialized training activities as can best be administered~~
 7 ~~internally by such individual agencies;~~

8 ~~————— (2) Establish a management trainee program and prescribe rules for the~~
 9 ~~establishment of a career executive service for the state;~~

10 ~~————— (3) Formulate for approval of the board regulations regarding mandatory~~
 11 ~~training for persons employed in management positions in state agencies;~~

12 ~~————— (4) Institute, coordinate and direct a statewide program for recruitment~~
 13 ~~of personnel in cooperation with appointing authorities in state agencies;~~

14 ~~————— (5) Assist all state departments in setting productivity goals and in~~
 15 ~~implementing a standard system of performance appraisals;~~

16 ~~————— (6) Establish and direct a central labor relations function for the state~~
 17 ~~which shall coordinate labor relations activities in individual state agencies;~~
 18 ~~including participation in negotiations and approval of agreements relating to~~
 19 ~~uniform wages, benefits and those aspects of employment which have fiscal~~
 20 ~~impact on the state; and~~

21 ~~————— (7) Formulate rules for approval of the board and establish procedures~~
 22 ~~and standards relating to position classification and compensation of employees~~
 23 ~~which are designed to secure essential uniformity and comparability among state~~
 24 ~~agencies.~~

25 ~~————— 2. Any person who is employed in a position subject to merit system~~
 26 ~~regulations and who engaged in a strike or labor stoppage shall be subject to the~~
 27 ~~penalties provided by law.]~~

28
 [621.075. 1. Except as otherwise provided by law, any employee with
 2 merit status who has been dismissed or involuntarily demoted for cause or
 3 suspended for more than five working days shall have the right to appeal to the
 4 administrative hearing commission. Any such person shall be entitled to a
 5 hearing before the administrative hearing commission by the filing of an appeal
 6 setting forth in substance the employee's reasons for claiming that the dismissal,

7 suspension, or demotion was for political, religious, or racial reasons, or not for
8 the good of the service with the administrative hearing commission within thirty
9 days after the effective date of the action. The decision of the appointing
10 authority shall contain a notice of the right of appeal in substantially the
11 following language:

12 ~~—————~~ "Any employee with regular status who has been dismissed or involuntarily
13 demoted for cause or suspended for more than five working days may appeal to
14 the administrative hearing commission. To appeal, you must file an appeal with
15 the administrative hearing commission within thirty days after the effective date
16 of the decision. If any such appeal is sent by registered mail or certified mail, it
17 will be deemed filed on the date it is mailed; if it is sent by any method other than
18 registered mail or certified mail, it will be deemed filed on the date it is received
19 by the commission."

20 ~~—————~~ 2. The procedures applicable to the processing of such hearings and
21 determinations shall be those established by chapter 536. The administrative
22 hearing commission may hold hearings or may make decisions based on
23 stipulation of the parties, consent order, agreed settlement, or by disposition in
24 the nature of default judgment, judgment on the pleadings, or summary
25 determination, in accordance with the rules and procedures of the administrative
26 hearing commission. No hearing shall be public unless requested to be public by
27 the employee. The administrative hearing commission shall maintain a transcript
28 of all testimony and proceedings in hearings governed by this section, and
29 decisions of the administrative hearing commission under this section shall be
30 binding subject to appeal by either party. The administrative hearing commission
31 may make any one of the following appropriate orders:

32 ~~—————~~ (1) Order the reinstatement of the employee to the employee's former
33 position;

34 ~~—————~~ (2) Sustain the dismissal of such employee;

35 ~~—————~~ (3) Except as provided in subdivisions (1) and (2) of this subsection, the
36 administrative hearing commission may sustain the dismissal, but may order the
37 director of personnel to recognize reemployment rights for the dismissed
38 employee pursuant to section 36.240, in an appropriate class or classes, or may
39 take steps to effect the transfer of such employee to an appropriate position in the
40 same or another division of service.

41 ~~—————~~ 3. After an order of reinstatement has been issued and all parties have let
42 the time for appeal lapse or have filed an appeal and that appeal process has
43 become final and the order of reinstatement has been affirmed, the administrative
44 hearing commission shall commence a separate action to determine the date of
45 reinstatement and the amount of back pay owed to the employee. This action
46 may be done by hearing, or by affidavit, depositions, or stipulations, or by
47 agreement on the amount of back pay owed. No hearing shall be public unless
48 requested to be public by the employee.]
49

Section B. The repeal of sections 36.030, 36.031, 36.050, 36.060, 36.070, 36.100,
2 36.110, 36.120, 36.130, 36.140, 36.160, 36.170, 36.180, 36.190, 36.200, 36.210, 36.220, 36.225,
3 36.240, 36.250, 36.260, 36.270, 36.280, 36.290, 36.300, 36.310, 36.320, 36.330, 36.340, 36.350,
4 36.360, 36.370, 36.380, 36.390, 36.400, 36.410, 36.430, 36.440, 36.450, 36.460, 36.470, 36.500,
5 36.510, and 621.075 and the repeal and reenactment of sections 36.010, 36.020, 36.040, 36.080,
6 36.090, 36.150, 36.152, 36.420, 37.005, 37.010, 37.735, 42.012, 105.055, 105.950, 105.1105,
7 105.1110, 105.1114, 161.925, 181.043, 191.907, 207.085, 208.201, 210.170, 217.030, 217.160,
8 217.165, 217.665, 219.036, 236.405, 286.005, 288.220, 291.030, 510.035, 620.460, 620.568,
9 630.003, 630.030, 630.035, 630.040, 630.167, 631.015, 632.015, 633.015, 640.010, and 660.010
10 of this act shall become effective on July 1, 2019.

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