

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 255
94TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, April 19, 2007, with recommendation that the Senate Committee Substitute do pass.

0982S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 3.070, 8.110, 8.120, 8.180, 8.200, 8.250, 8.255, 8.260, 8.291, 8.294, 8.310, 8.316, 8.320, 8.325, 8.330, 8.340, 8.350, 8.360, 8.800, 8.830, 8.843, 26.220, 26.225, 27.095, 27.100, 28.305, 28.310, 29.405, 29.410, 30.505, 30.510, 33.710, 34.010, 34.031, 34.032, 34.040, 34.042, 34.044, 34.065, 34.130, 37.005, 37.010, 37.452, 44.237, 217.575, 251.240, 253.320, 253.510, 261.010, 311.650, 313.210, 320.260, 334.125, 361.010, and 630.525, RSMo, and to enact in lieu thereof fifty-four new sections relating to the office of administration, with an emergency clause.

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

Section A. Sections 3.070, 8.110, 8.120, 8.180, 8.200, 8.250, 8.255, 8.260, 8.291, 8.294, 8.310, 8.316, 8.320, 8.325, 8.330, 8.340, 8.350, 8.360, 8.800, 8.830, 8.843, 26.220, 26.225, 27.095, 27.100, 28.305, 28.310, 29.405, 29.410, 30.505, 30.510, 33.710, 34.010, 34.031, 34.032, 34.040, 34.042, 34.044, 34.065, 34.130, 37.005, 37.010, 37.452, 44.237, 217.575, 251.240, 253.320, 253.510, 261.010, 311.650, 313.210, 320.260, 334.125, 361.010, and 630.525, RSMo, are repealed and fifty-four new sections enacted in lieu thereof, to be known as sections 3.070, 8.016, 8.110, 8.180, 8.200, 8.250, 8.255, 8.260, 8.291, 8.294, 8.310, 8.316, 8.320, 8.325, 8.330, 8.340, 8.350, 8.360, 8.800, 8.830, 8.843, 26.220, 26.225, 27.095, 27.100, 28.305, 28.310, 29.405, 29.410, 30.505, 30.510, 33.710, 34.010, 34.031, 34.032, 34.040, 34.042, 34.044, 37.005, 37.010, 37.451, 37.452, 44.237, 217.575, 251.240, 253.320, 253.510, 261.010, 311.650, 313.210, 320.260, 334.125, 361.010, and 630.525, to read as follows:

3.070. The committee shall appoint and fix the compensation of a revisor

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 of statutes and other attorneys and assistants necessary to the performance of its
3 duties under this chapter. The compensation of the revisor of statutes and his
4 assistants and expenses incurred in connection with the performance of their
5 duties shall be paid from appropriations made for the committee on legislative
6 research. The revisor of statutes shall be duly licensed to practice law in this
7 state and serves at the pleasure of the committee. The revisor of statutes shall
8 perform all duties required by the committee in connection with its duties under
9 this chapter. He shall conform to all regulations prescribed for the internal
10 operation of the committee and shall render such assistance to the general
11 assembly in connection with pending or proposed legislation as required by the
12 committee or by any law imposing duties on the committee. He is subject also in
13 all respects to the law governing other persons appointed or employed by the
14 committee. The division of **facilities management**, design and construction
15 shall provide adequate office space in the capitol building for the revisor of
16 statutes and the attorneys and employees associated with him.

**8.016. The commissioner of the office of administration shall
2 provide each member of the senate with a key that accesses the dome
3 of the state capitol.**

8.110. There is hereby created within the office of administration a
2 "Division of Facilities Management, **Design and Construction**", which shall
3 **supervise the design, construction, renovations, maintenance and
4 repair of state facilities, except as provided in sections 8.015 and 8.017,
5 and except facilities belonging to the institutions of higher education,
6 the highways and transportation commission, and the conservation
7 commission, and which shall be responsible to review all requests for
8 appropriations for capital improvements.** Except as otherwise provided by
9 law, the director of the division [of facilities management] shall be responsible
10 for the management and operation of office buildings titled in the name of the
11 governor. The director shall exercise all diligence to ensure that all facilities
12 within his management and control comply with the designated building codes;
13 that they are clean, safe and secure, and in proper repair; and that they are
14 adequately served by all necessary utilities.

8.180. In all cases where a court or other officer performs any lawful
2 service, at the instance of any director of the division of **facilities management**,
3 design and construction in and about the collection of debts due the state, and the
4 costs have not nor cannot be made out of the defendant, the director of the

5 division of **facilities management**, design and construction shall pay the same
6 fees that other plaintiffs are bound to pay for similar services, and no other.

8.200. The director of the division of **facilities management**, design and
2 construction shall proceed against any sheriff or peace officer who refuses to
3 perform any duty, in the name of the state, in the same way and to the full extent
4 that any other plaintiff in an action might or could do.

8.250. 1. "Project" for the purposes of this chapter means the labor or
2 material necessary for the construction, renovation, or repair of improvements to
3 real property so that the work, when complete, shall be ready for service for its
4 intended purpose and shall require no other work to be a completed system or
5 component.

6 2. All contracts for projects, the cost of which exceeds twenty-five
7 thousand dollars, entered into by any [officer or agency of this state or of any]
8 city containing five hundred thousand inhabitants or more shall be let to the
9 lowest, responsive, responsible bidder or bidders after notice and publication of
10 an advertisement for five days in a daily newspaper in the county where the work
11 is located, or at least twice over a period of ten days or more in a newspaper in
12 the county where the work is located, and in two daily newspapers in the state
13 which do not have less than fifty thousand daily circulation, and by such other
14 means as are determined to be most likely to reach potential bidders.

15 3. **All contracts for projects, the cost of which exceeds one**
16 **hundred thousand dollars, entered into by any officer or agency of this**
17 **state shall be let to the lowest, responsive, responsible bidder or**
18 **bidders based on pre-established criteria, after notice and publication**
19 **of an advertisement for five days in a daily newspaper in the county**
20 **where the work is located, or at least twice over a period of ten days or**
21 **more in a newspaper in the county where the work is located, and in**
22 **one daily newspaper in the state which does not have less than fifty**
23 **thousand daily circulation, and by such other means as are determined**
24 **to be most likely to reach potential bidders. For all contracts for**
25 **projects between twenty-five thousand dollars and one hundred**
26 **thousand dollars, a minimum of three contractors will be solicited with**
27 **the award being made to the lowest, responsive, responsible bidder**
28 **based on the pre-established criteria.**

29 4. The number of such public bids shall not be restricted or curtailed, but
30 shall be open to all persons complying with the terms upon which the bids are

31 requested or solicited unless debarred for cause. No contract shall be awarded
32 when the amount appropriated for same is not sufficient to complete the work
33 ready for service.

34 [4.] 5. Dividing a project into component labor or material allocations for
35 the purpose of avoiding bidding or advertising provisions required by this section
36 is specifically prohibited.

8.255. 1. The director may authorize any agency of the state to establish
2 standing contracts for the purpose of accomplishing construction, renovation,
3 maintenance and repair projects not exceeding one hundred thousand
4 dollars. Such contracts shall be advertised and bid in the same manner as
5 contracts for work which exceeds one hundred thousand dollars, except that each
6 contract shall allow for multiple projects, the cost of each of which does not
7 exceed one hundred thousand dollars. Each contract shall be of a stated duration
8 and shall have a stated maximum total expenditure. **For job order contracts,**
9 **the total expenditure per project shall not exceed three hundred**
10 **thousand dollars.**

11 2. The director, with full documentation, shall have the authority to
12 authorize any agency to contract for any design or construction, renovation,
13 maintenance, or repair work which in his judgment can best be procured directly
14 by such agency. The director shall establish, by rule, the procedures which the
15 agencies must follow to procure contracts for design, construction, renovation,
16 maintenance or repair work. Each agency which procures such contracts
17 pursuant to a delegation shall file an annual report as required by rule. The
18 director shall provide general supervision over the process. The director may
19 establish procedures by which such contracts are to be procured, either generally
20 or in accordance with each authorization.

21 3. The director, in his sole discretion, may with full documentation
22 approve a recommendation from a project designer that a material, product or
23 system within a specification for construction, renovation or repair work be
24 designated by brand, trade name or individual mark, when it is determined to be
25 in the best interest of the state. The specification may include a preestablished
26 price for purchase of the material, product or system where required by the
27 director.

8.260. All appropriations made by the general assembly amounting to one
2 hundred thousand dollars or more for the construction, renovation, or repair of
3 facilities shall be expended in the following manner:

4 (1) The agency requesting payment shall provide the commissioner of
5 administration with satisfactory evidence that a bona fide contract, procured in
6 accordance with all applicable procedures, exists for the work for which payment
7 is requested;

8 (2) All requests for payment shall be approved by the architect or engineer
9 registered to practice in the state of Missouri who designed the project or who has
10 been assigned to oversee it;

11 (3) In order to guarantee completion of the contract, the agency or officer
12 shall retain a portion of the contract value in accordance with the provisions of
13 section 34.057, RSMo;

14 (4) A contractor may be paid for materials delivered to the site or to a
15 storage facility approved by the director of the division of **facilities**
16 **management**, design and construction as having adequate safeguards against
17 loss, theft or conversion.

18 In no case shall the amount contracted for exceed the amount appropriated by the
19 general assembly for the purpose.

8.291. 1. The agency shall list three highly qualified firms. The agency
2 shall then select the firm considered best qualified and capable of performing the
3 desired work and negotiate a contract for the project with the firm selected.

4 2. For a basis for negotiations the agency shall prepare a written
5 description of the scope of the proposed services.

6 3. If the agency is unable to negotiate a satisfactory contract with the firm
7 selected, negotiations with that firm shall be terminated. The agency shall then
8 undertake negotiations with another of the qualified firms selected. If there is
9 a failing of accord with the second firm, negotiations with such firm shall be
10 terminated. The agency shall then undertake negotiations with the third
11 qualified firm.

12 4. If the agency is unable to negotiate a contract with any of the selected
13 firms, the agency shall reevaluate the necessary architectural, engineering or
14 land surveying services, including the scope and reasonable fee requirements,
15 again compile a list of qualified firms and proceed in accordance with the
16 provisions of sections 8.285 to 8.291.

17 5. The provisions of sections 8.285 to 8.291 shall not apply to any political
18 subdivision which adopts a formal **qualifications-based selection** procedure
19 **commensurate with state policy** for the procurement of architectural,
20 engineering and land surveying services.

8.294. There is hereby created within the state treasury the "State
2 Facility Maintenance and Operation Fund", which shall be funded annually by
3 appropriation, and which shall contain moneys transferred or paid to the office
4 of administration or the board of public buildings as operating expenses and
5 for-rent expenses of state-owned facilities operated by the office of
6 administration. The state treasurer shall be custodian of the fund and shall
7 approve disbursements from the fund for maintenance, repair, and operating
8 expenses of the facilities. The provisions of section 33.080, RSMo, to the contrary
9 notwithstanding, moneys in the fund shall not lapse, unless and only to the
10 extent to which the unencumbered balance at the close of any fiscal year exceeds
11 [one-twelfth] **one-fourth** of the total amount appropriated, paid, or transferred
12 to the fund during such fiscal year.

8.310. Any other provision of law to the contrary notwithstanding, no
2 contracts shall be let for design, repair, renovation or construction without
3 approval of the director of the division of **facilities management**, design and
4 construction, and no claim for design, repair, construction or renovation projects
5 under contract shall be accepted for payment by the commissioner of
6 administration without approval by the director of the division of **facilities**
7 **management**, design and construction; except that the department of
8 conservation, the boards of curators of the state university and Lincoln
9 University, the several boards of regents of the state colleges and the boards of
10 trustees of the community junior colleges may contract for architectural and
11 engineering services for the design and supervision of the construction, repair,
12 maintenance or improvement of buildings or institutions and may contract for
13 construction, repair, maintenance or improvement. The director of the division
14 of **facilities management**, design and construction shall not be required to
15 review any claim for payment under any such contract not originally approved by
16 him. No claim under any contract executed by the department of conservation or
17 an institution of higher learning, as provided above, shall be certified by the
18 commissioner of administration unless the entity making the claim shall certify
19 in writing that the payment sought is in accordance with the contract executed
20 by the entity and that the underlying construction, repair, maintenance or
21 improvement conforms with applicable regulations promulgated by the director
22 pursuant to section 8.320.

8.316. The division of **facilities management**, design and construction
2 shall promulgate a method to accurately calculate the replacement cost of all

3 buildings owned by public institutions of higher education. The method shall be
4 developed in cooperation with such institutions and shall include the necessary
5 components and factors to accurately calculate a replacement cost. The division
6 shall utilize a procedure to allow differences to be resolved and may include an
7 alternative calculation where the original cost plus an inflation factor is utilized
8 to determine a replacement cost value.

8.320. The director of the division of **facilities management**, design and
2 construction shall set forth reasonable conditions to be met and procedures to be
3 followed in the repair, maintenance, operation, construction and administration
4 of state facilities. The conditions and procedures shall be codified and filed with
5 the secretary of state in accordance with the provisions of the constitution. No
6 payment shall be made on claims resulting from work performed in violation of
7 these conditions and procedures, as certified by the director of the division of
8 **facilities management**, design and construction.

8.325. 1. In addition to providing the general assembly with estimates of
2 the cost of completing a proposed capital improvement project, the division of
3 **facilities management**, design and construction shall provide the general
4 assembly, at the same time as the division submits the estimate of the capital
5 improvement costs for the proposed capital improvement project, an estimate of
6 the operating costs of such completed capital improvement project for its first full
7 year of operation. Such estimate shall include, but not be limited to, an estimate
8 of the cost of:

9 (1) Personnel directly related to the operation of the completed capital
10 improvement project, such as janitors, security, and other persons who would
11 provide necessary services for the completed project or facility;

12 (2) Utilities for the completed project or facility; and

13 (3) Any maintenance contracts which would be entered into in order to
14 provide services for the completed project or facility, such as elevator
15 maintenance, boiler maintenance, and other similar service contracts with private
16 contractors to provide maintenance services for the completed project or facility.

17 2. The costs estimates required by this section shall clearly indicate the
18 additional operating costs of the building or facility due to the completion of the
19 capital improvement project where such proposed project is for an addition to an
20 existing building or facility.

21 3. Any agency of state government which removes from rental quarters
22 or state-owned buildings because of defective conditions or any other state

23 personnel shall be prevented from reoccupation of those quarters for a period of
24 three years unless such defective conditions are renovated within a reasonable
25 time before reoccupation.

8.330. The director of the division of **facilities management**, design and
2 construction may secure information and data relating to state facilities from all
3 departments and agencies of the state and each department and agency shall
4 furnish information and data when requested by the director of the division of
5 **facilities management**, design and construction. All information and data
6 collected by the director of the division of **facilities management**, design and
7 construction is available at all times to the general assembly upon request.

8.340. The director of the division of **facilities management**, design and
2 construction shall assemble and maintain complete files of information on the
3 repair, utilization, cost and other data for all state facilities, including power
4 plants, pump houses and similar facilities. He shall also assemble and maintain
5 files containing a full legal description of all real estate owned by the state and
6 blueprints of all state facilities.

8.350. The director of the division of **facilities management**, design and
2 construction shall deliver to his successor all property and papers of every kind
3 in his possession, relative to the affairs of state, make an inventory thereof, upon
4 which he shall take a receipt of his successor, and deliver the same to the
5 secretary of state.

8.360. The director of the division of **facilities management**, design and
2 construction shall inspect all facilities and report to the general assembly at the
3 commencement of each regular session on their condition, maintenance, repair
4 and utilization.

8.800. As used in sections 8.800 to 8.825, the following terms mean:

- 2 (1) "Builder", the prime contractor that hires and coordinates building
3 subcontractors or if there is no prime contractor, the contractor that completes
4 more than fifty percent of the total construction work performed on the
5 building. Construction work includes, but is not limited to, foundation, framing,
6 wiring, plumbing and finishing work;
- 7 (2) "Department", the department of natural resources;
- 8 (3) "Designer", the architect, engineer, landscape architect, builder,
9 interior designer or other person who performs the actual design work or is under
10 the direct supervision and responsibility of the person who performs the actual
11 design work;

12 (4) "District heating and cooling systems", heat pump systems which use
13 waste heat from factories, sewage treatment plants, municipal solid waste
14 incineration, lighting and other heat sources in office buildings or which use
15 ambient thermal energy from sources including temperature differences in rivers
16 to provide regional heating or cooling;

17 (5) "Division", the division of **facilities management**, design and
18 construction;

19 (6) "Energy efficiency", the increased productivity or effectiveness of
20 energy resources use, the reduction of energy consumption, or the use of
21 renewable energy sources;

22 (7) "Gray water", all domestic wastewater from a state building except
23 wastewater from urinals, toilets, laboratory sinks, and garbage disposals;

24 (8) "Life cycle costs", the costs associated with the initial construction or
25 renovation and the proposed energy consumption, operation and maintenance
26 costs over the useful life of a state building or over the first twenty-five years
27 after the construction or renovation is completed;

28 (9) "Public building", a building owned or operated by a governmental
29 subdivision of the state, including, but not limited to, a city, county or school
30 district;

31 (10) "Renewable energy source", a source of thermal, mechanical or
32 electrical energy produced from solar, wind, low-head hydropower, biomass,
33 hydrogen or geothermal sources, but not from the incineration of hazardous
34 waste, municipal solid waste or sludge from sewage treatment facilities;

35 (11) "State agency", a department, commission, authority, office, college
36 or university of this state;

37 (12) "State building", a building owned by this state or an agency of this
38 state.

8.830. For purposes of sections 8.830 to 8.851, the following terms mean:

2 (1) "Department", the department of natural resources;

3 (2) "Director", the director of the department of natural resources;

4 (3) "Division", the division of **facilities management**, design and
5 construction;

6 (4) "Public building", a building owned or operated by a governmental
7 subdivision of the state, including, but not limited to, a city, county or school
8 district;

9 (5) "State building", a building owned or operated by the state, a state

10 agency or department, a state college or a state university.

8.843. There is hereby established an interagency advisory committee on
2 energy cost reduction and savings. The committee shall consist of the
3 commissioner of administration, the director of the division of **facilities**
4 **management**, design and construction, the director of the department of natural
5 resources, the director of the environmental improvement and energy resources
6 authority, the director of the division of energy, the director of the department of
7 transportation, the director of the department of conservation and the
8 commissioner of higher education. The committee shall advise the department
9 on the development of the minimum energy efficiency standard and state building
10 energy efficiency rating system and shall assist the office of administration in
11 implementing sections 8.833 and 8.835.

26.220. The transition period shall begin on the [fifteenth day of
2 November] **first day** following the election of a governor or lieutenant governor
3 who is not an incumbent and shall end when that governor-elect or lieutenant
4 governor-elect has taken the oath of office. **Expenses incurred during the**
5 **transition period may be paid after the actual end of the transition**
6 **period.**

26.225. 1. The commissioner of administration shall provide office space
2 and equipment for the governor-elect and the lieutenant governor-elect and their
3 staff during the transition period. The facilities provided shall be located at the
4 seat of government and shall be suitable for the purpose and capable of
5 adequately housing the transition staff of the governor-elect and the lieutenant
6 governor-elect. The facilities provided for the staffs of the governor-elect and the
7 lieutenant governor-elect shall be separate facilities.

8 2. The commissioner of administration shall furnish the transition
9 facilities with adequate telephone service, office furniture and office [machines
10 including but not limited to typewriters, adding machines and duplicating]
11 equipment. **The commissioner of administration shall request separate**
12 **funding to cover the estimated costs of setting up the transition**
13 **facilities so they are operational the day following the election. These**
14 **funds are limited to the set-up of the transition facilities and shall not**
15 **cover expenses incurred during the official transition period.**

16 3. The transition period office space may be located in state-owned
17 buildings or in leased property. All salaries, expenses, [rentals] and equipment
18 [purchase and] repairs **during the official transition period** shall be made

19 only from funds appropriated for the purpose of these transitions.

27.095. The "transition period" shall begin on the [fifteenth day of
2 November] **first day** following the election of an attorney general who is not an
3 incumbent and shall end when that attorney general-elect has taken the oath of
4 office. **Expenses incurred during the transition period may be paid after**
5 **the actual end of the transition period.**

27.100. 1. The commissioner of administration shall provide office space
2 and equipment for the attorney general-elect and his staff during the transition
3 period. The facilities provided shall be located at the seat of government and
4 shall be suitable for the purpose and capable of adequately housing the attorney
5 general-elect and his staff.

6 2. The commissioner of administration shall furnish the transition facility
7 with adequate telephone service, office furniture and office [machines including
8 but not limited to typewriters, adding machines and duplicating]
9 equipment. **The commissioner of administration shall request separate**
10 **funding to cover the estimated costs of setting up the transition**
11 **facilities so they are operational the day following the election. These**
12 **funds are limited to the set-up of the transition facilities and shall not**
13 **cover expenses incurred during the official transition period.**

14 3. The transition period office space may be located in state-owned
15 buildings or in leased property. All salaries, expenses, [rentals] and equipment
16 [purchase and] repairs **during the official transition period** shall be made
17 only from funds appropriated for the purpose of this transition.

28.305. The "transition period" shall begin on the [fifteenth day of
2 November] **first day** following the election of a secretary of state who is not an
3 incumbent and shall end when that secretary of state-elect has taken the oath of
4 office. **Expenses incurred during the transition period may be paid after**
5 **the actual end of the transition period.**

28.310. 1. The commissioner of administration shall provide office space
2 and equipment for the secretary of state-elect and his staff during the transition
3 period. The facilities provided shall be located at the seat of government and
4 shall be suitable for the purpose and capable of adequately housing the secretary
5 of state-elect and his staff.

6 2. The commissioner of administration shall furnish the transition facility
7 with adequate telephone service, office furniture and office [machines including
8 but not limited to typewriters, adding machines and duplicating]

9 equipment. **The commissioner of administration shall request separate**
10 **funding to cover the estimated costs of setting up the transition**
11 **facilities so they are operational the day following the election. These**
12 **funds are limited to the set-up of the transition facilities and shall not**
13 **cover expenses incurred during the official transition period.**

14 3. The transition period office space may be located in state-owned
15 buildings or in leased property. All salaries, expenses, [rentals] and equipment
16 [purchase and] repairs **during the official transition period** shall be made
17 only from funds appropriated for the purpose of this transition.

29.405. The transition period shall begin on the [fifteenth day of
2 November] **first day** following the election of an auditor who is not an incumbent
3 and shall end when that auditor-elect has taken the oath of office. **Expenses**
4 **incurred during the transition period may be paid after the actual end**
5 **of the transition period.**

29.410. 1. The commissioner of administration shall provide office space
2 and equipment for the auditor-elect and his staff during the transition
3 period. The facilities provided shall be located at the seat of government and
4 shall be suitable for the purpose and capable of adequately housing the
5 auditor-elect and his staff.

6 2. The commissioner of administration shall furnish the transition facility
7 with adequate telephone service, office furniture and office [machines including
8 but not limited to typewriters, adding machines and duplicating]
9 equipment. **The commissioner of administration shall request separate**
10 **funding to cover the estimated costs of setting up the transition**
11 **facilities so they are operational the day following the election. These**
12 **funds are limited to the set-up of the transition facilities and shall not**
13 **cover expenses incurred during the official transition period.**

14 3. The transition period office space may be located in state-owned
15 buildings or in leased property. All salaries, expenses, [rentals] and equipment
16 [purchase and] repairs **during the official transition period** shall be made
17 only from funds appropriated for the purpose of this transition.

30.505. The transition period shall begin on the [fifteenth day of
2 November] **first day** following the election of a treasurer who is not an
3 incumbent and shall end when that treasurer-elect has taken the oath of
4 office. **Expenses incurred during the transition period may be paid after**
5 **the actual end of the transition period.**

30.510. 1. The commissioner of administration shall provide office space and equipment for the treasurer-elect and his staff during the transition period. The facilities provided shall be located at the seat of government and shall be suitable for the purpose and capable of adequately housing the treasurer-elect and his staff.

2. The commissioner of administration shall furnish the transition facility with adequate telephone service, office furniture and office [machines including but not limited to typewriters, adding machines and duplicating] equipment. **The commissioner of administration shall request separate funding to cover the estimated costs of setting up the transition facilities so they are operational the day following the election. These funds are limited to the set-up of the transition facilities and shall not cover expenses incurred during the official transition period.**

3. The transition period office space may be located in state-owned buildings or in leased property. All salaries, expenses, [rentals] and equipment [purchase and] repairs **during the official transition period** shall be made only from funds appropriated for the purpose of this transition.

33.710. 1. There is created "The Governmental Emergency Fund Committee" consisting of the governor, the commissioner of administration, the chairman and ranking minority member of the senate appropriations committee, the chairman and ranking minority member of the house appropriations committee and the director of the division of **facilities management**, design and construction who shall serve as consultant to the committee without vote.

2. The members of the committee shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred by them in the performance of their official duties.

3. The committee shall elect from among its members a chairman and vice chairman and such other officers as it deems necessary.

34.010. 1. The term "department" as used in this chapter shall be deemed to mean department, office, board, commission, bureau, institution, or any other agency of the state, except the legislative and judicial departments.

2. The term "lowest and best" [in] **as used in this chapter means** determining the lowest and best award, cost, and other factors [are to be] considered in the evaluation process. Factors may include, but are not limited to, value, performance, and quality of a product.

3. The term "Missouri product" refers to goods or commodities which are

9 manufactured, mined, produced, or grown by companies in Missouri, or services
10 provided by such companies.

11 4. The term "negotiation" as used in this chapter means the process of
12 selecting a contractor by the competitive methods described in this chapter,
13 whereby the commissioner of administration can establish any and all terms and
14 conditions of a procurement contract by discussion with one or more prospective
15 contractors.

16 5. The term "purchase" as used in this chapter shall include the rental or
17 leasing of any equipment, articles or things.

18 6. The term "supplies" used in this chapter shall be deemed to mean
19 supplies, materials, equipment, contractual services and any and all articles or
20 things, except for utility services regulated under chapter 393, RSMo, or as in
21 this chapter otherwise provided.

22 7. The term "value" includes but is not limited to price, performance, and
23 quality. In assessing value, the state purchaser may consider the economic
24 impact to the state of Missouri for Missouri products versus the economic impact
25 of products generated from out of state. This economic impact may include the
26 revenues returned to the state through tax revenue obligations.

34.031. 1. The commissioner of administration, in consultation with the
2 environmental improvement and energy resources authority of the department of
3 natural resources, shall give full consideration to the purchase of products made
4 from materials recovered from solid waste and to the reduction and ultimate
5 elimination of purchases of products manufactured in whole or in part of
6 thermoformed or other extruded polystyrene foam manufactured using any fully
7 halogenated chlorofluorocarbon (CFC). Products that utilize recovered materials
8 of a price and quality comparable to products made from virgin materials shall
9 be sought and purchased, with particular emphasis on recycled oil, retread tires,
10 compost materials and recycled paper products. The commissioner shall exercise
11 a preference for such products if their use is technically feasible and, where a bid
12 is required, their price is equal to, or less than, the price of items which are
13 manufactured or produced from virgin materials. Products that would be inferior,
14 violate safety standards or violate product warranties if the provisions of this
15 section are followed may be excluded from the provisions of this section.

16 2. The commissioner of administration shall:

17 (1) Review the procurement specifications in order to eliminate
18 discrimination against the procurement of recycled products;

19 (2) Review and modify the contract specifications for paper products and
20 increase the minimum required percentage of recycled paper in each product as
21 follows:

22 (a) Forty percent recovered materials for newsprint;

23 (b) Eighty percent recovered materials for paperboard;

24 (c) Fifty percent waste paper in high grade printing and writing paper;

25 (d) Five to forty percent in tissue products;

26 (3) Support federal incentives and policy guidelines designed to promote
27 these goals;

28 (4) Develop and implement a cooperative procurement policy to facilitate
29 bulk order purchases and to increase availability of recycled products. The policy
30 shall be distributed to all state agencies and shall be made available to political
31 subdivisions of the state[;

32 (5) Conduct a survey using existing staff of those items customarily
33 required by the state that are manufactured in whole or part from polystyrene
34 plastic, and report its findings, together with an analysis of environmentally
35 acceptable alternatives thereto, prepared in collaboration with the department of
36 natural resources, to the general assembly and every state agency within six
37 months of August 28, 1995].

38 3. Notwithstanding the provisions of this section, no state agency may
39 purchase any food or beverage containers or wrapping manufactured from any
40 polystyrene foam manufactured using any fully halogenated chlorofluorocarbon
41 (CFC) found by the United States Environmental Protection Agency (EPA) to be
42 an ozone-depleting chemical.

43 4. No state agency may purchase any items made in whole or part of
44 thermoformed or other extruded polystyrene foam manufactured using any fully
45 halogenated chlorofluorocarbon (CFC) found by the United States Environmental
46 Protection Agency (EPA) to be an ozone-depleting chemical without approval from
47 the commissioner of administration. Approval shall not be granted unless the
48 purchasing agency demonstrates to the satisfaction of the director of the
49 department of natural resources and the commissioner that there is no
50 environmentally more acceptable alternatives or the quality of such alternatives
51 is not adequate for the purpose intended.

52 5. For each paper product type and corresponding recycled paper content
53 standard pursuant to subdivision (2) of subsection 2 of this section, attainment
54 goals for the percentage of paper products to be purchased that utilize

55 post-consumer recovered materials shall be[:

- 56 (1) Ten percent in 1991 and 1992;
57 (2) Twenty-five percent in 1993 and 1994;
58 (3) Forty percent in 1995; and
59 (4)] sixty percent by 2000.

60 6. In the review of capital improvement projects for buildings and
61 facilities of state government, the commissioner of administration shall direct the
62 division of **facilities management**, design and construction to give full
63 consideration to alternatives which use solid waste, as defined in section 260.200,
64 RSMo, as a fuel for energy production or which use products composed of
65 materials recovered from solid waste.

66 7. The commissioner of administration, in consultation with the
67 environmental improvement and energy resources authority of the department of
68 natural resources, shall prepare and provide by January first of each year an
69 annual report summarizing past activities and accomplishments of the program
70 and proposed goals of the program including projections for each affected
71 agency. The report shall also include a list of products utilizing recovered
72 materials that could substitute for products currently purchased and a schedule
73 of amounts purchased of products utilizing recovered materials compared to
74 purchases of similar products utilizing virgin materials for the period covered by
75 the annual report.

76 8. The office of administration, department of natural resources and
77 department of economic development shall cooperate jointly and share to the
78 greatest extent possible, information and other resources to promote:

- 79 (1) Producers or potential producers of secondary material goods to
80 expand or develop their product lines;
81 (2) Increased demand for secondary materials recovered in Missouri; and
82 (3) Increased demand by state government for products which contain
83 secondary materials recovered in Missouri.

84 9. The commissioner of administration may increase minimum recycled
85 content percentages for paper products, minimum recycled content percentages
86 for other recycled products and establish minimum post-consumer content as such
87 products become available. The preference provided in subsection 1 of this
88 section shall apply to the minimum standards established by the commissioner.

34.032. 1. The provisions of section 34.040 to the contrary
2 notwithstanding, each department and agency of the state government, including

3 the general assembly, shall purchase, in the manner provided by law, and use
4 recycled paper when recycled paper can be obtained that is comparable to the
5 quality presently used by the department or agency and if the price is
6 competitive. [For the purposes of this section, "competitive" means a price within
7 ten percent of the price of items which are manufactured or produced from virgin
8 materials.] Attainment goals for the percentage of paper products to be purchased
9 that utilize post-consumer recovered materials shall be[:

10 (1) Ten percent in 1991 and 1992;

11 (2) Twenty-five percent in 1993 and 1994;

12 (3) Forty percent in 1995; and

13 (4)] sixty percent by 2000.

14 2. Each department and agency of state government shall also purchase
15 a minimum of fifteen percent recycled motor oil for use in motor vehicles.

16 3. Each department and agency of state government shall cause to be
17 recycled:

18 (1) A minimum of twenty-five percent of paper products used or fifty
19 percent of the paper disposed of, whichever is greater;

20 (2) Seventy-five percent of all used motor oil.

21 4. Each department and state agency shall, to the maximum extent
22 practicable, separate plastics, paper, metals and other recyclable items [by July
23 1, 1990].

24 5. [By January 1, 1990,] Each department and state agency shall develop,
25 in cooperation with the office of administration, and implement a policy for
26 recycling and waste reduction. Each department and agency shall collect and
27 recycle waste paper and empty aluminum beverage containers generated by
28 employee activity. The office of the governor and the general assembly shall
29 implement a policy for recycling and waste reduction and shall collect and recycle
30 waste paper and aluminum beverage containers generated within its
31 facilities. Recycling programs for agency offices located outside of the city of
32 Jefferson may be coordinated through the office of administration or operated
33 locally provided that the office of administration reviews and approves such
34 programs. Proceeds from the sale of recycled materials may be used to offset
35 costs of the recycling program. Any moneys found by the office of administration
36 to be in excess of costs incurred shall be transferred to the department of social
37 services to be used by the heating assistance program pursuant to sections
38 660.100 to 660.135, RSMo.

39 6. The department of higher education, in cooperation with the office of
40 administration and state colleges and universities, shall develop and distribute
41 guidelines for waste reduction and the collection of recyclable materials generated
42 in classrooms, administrative offices, dormitories, cafeterias and similar campus
43 locations.

44 7. Bid specifications for solid waste management services issued by any
45 department or agency of state government shall be designed to meet the
46 objectives of sections 260.255 to 260.325, RSMo, encourage small businesses to
47 engage and compete in the delivery of waste management services and to
48 minimize the long run cost of managing solid waste. Bid specifications shall
49 enumerate the minimum components and minimum quantities of waste products
50 which shall be recycled by the successful bidder. Bids for solid waste
51 management services to state departments and agencies located within the seat
52 of government shall be issued in units in order to maximize opportunities for
53 small business to provide solid waste management services to the state. Each
54 department and agency shall designate one person in an existing position to serve
55 as a solid waste management coordinator to ensure that the agency and the office
56 of administration cooperate to meet the requirements of this section.

 34.040. 1. All purchases in excess of ~~[three]~~ **ten** thousand dollars shall
2 be based on competitive bids, except as otherwise provided in this chapter.

3 2. On any purchase where the estimated expenditure shall be
4 ~~[twenty-five]~~ **one hundred** thousand dollars or over, except as provided in
5 subsection 5 of this section, the commissioner of administration shall:

6 (1) Advertise for bids in at least two daily newspapers of general
7 circulation in such places as are most likely to reach prospective bidders and may
8 advertise in at least two weekly minority newspapers and may provide such
9 information through an electronic medium available to the general public at least
10 five days before bids for such purchases are to be opened. Other methods of
11 advertisement, which may include minority business purchase councils, however,
12 may be adopted by the commissioner of administration when such other methods
13 are deemed more advantageous for the supplies to be purchased;

14 (2) Post a notice of the proposed purchase in his or her office; and

15 (3) Solicit bids by mail or other reasonable method generally available to
16 the public from prospective suppliers. All bids for such supplies shall be mailed
17 or delivered to the office of the commissioner of administration so as to reach
18 such office before the time set for opening bids.

19 3. The contract shall be let to the lowest and best bidder. The
20 commissioner of administration shall have the right to reject any or all bids and
21 advertise for new bids, or purchase the required supplies on the open market if
22 they can be so purchased at a better price. When bids received pursuant to this
23 section are unreasonable or unacceptable as to terms and conditions,
24 noncompetitive, or the low bid exceeds available funds and it is determined in
25 writing by the commissioner of administration that time or other circumstances
26 will not permit the delay required to resolicit competitive bids, a contract may be
27 negotiated pursuant to this section, provided that each responsible bidder who
28 submitted such bid under the original solicitation is notified of the determination
29 and is given a reasonable opportunity to modify their bid and submit a best and
30 final bid to the state. In cases where the bids received are noncompetitive or the
31 low bid exceeds available funds, the negotiated price shall be lower than the
32 lowest rejected bid of any responsible bidder under the original solicitation.

33 4. All bids shall be based on standard specifications wherever such
34 specifications have been approved by the commissioner of administration. The
35 commissioner of administration shall make rules governing the delivery,
36 inspection, storage and distribution of all supplies so purchased and governing
37 the manner in which all claims for supplies delivered shall be submitted,
38 examined, approved and paid. The commissioner shall determine the amount of
39 bond or deposit and the character thereof which shall accompany bids or
40 contracts.

41 5. The department of natural resources may, without the approval of the
42 commissioner of administration required pursuant to this section, enter into
43 contracts of up to five hundred thousand dollars to abate illegal waste tire sites
44 pursuant to section 260.276, RSMo, when the director of the department
45 determines that urgent action is needed to protect public health, safety, natural
46 resources or the environment. The department shall follow bidding procedures
47 pursuant to this section and may promulgate rules necessary to establish such
48 procedures. Any rule or portion of a rule, as that term is defined in section
49 536.010, RSMo, that is created under the authority delegated in this section shall
50 become effective only if it complies with and is subject to all of the provisions of
51 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
52 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
53 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
54 date or to disapprove and annul a rule are subsequently held unconstitutional,

55 then the grant of rulemaking authority and any rule proposed or adopted after
56 August 28, 1999, shall be invalid and void.

57 6. The commissioner of administration and other agencies to which the
58 state purchasing law applies shall not contract for goods or services with a vendor
59 if the vendor or an affiliate of the vendor makes sales at retail of tangible
60 personal property or for the purpose of storage, use, or consumption in this state
61 but fails to collect and properly pay the tax as provided in chapter 144,
62 RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any
63 person or entity that is controlled by or is under common control with the vendor,
64 whether through stock ownership or otherwise.

34.042. 1. When the commissioner of administration determines that the
2 use of competitive bidding is either not practicable or not advantageous to the
3 state, supplies may be procured by competitive proposals. The commissioner
4 shall state the reasons for such determination, and a report containing those
5 reasons shall be maintained with the vouchers or files pertaining to such
6 purchases. All purchases in excess of **[five] ten** thousand dollars to be made
7 under this section shall be based on competitive proposals.

8 2. On any purchase where the estimated expenditure shall be **[twenty-**
9 **five] one hundred** thousand dollars or over, the commissioner of administration
10 shall:

11 (1) Advertise for proposals in at least two daily newspapers of general
12 circulation in such places as are most likely to reach prospective offerors and may
13 advertise in at least two weekly minority newspapers and may provide such
14 information through an electronic medium available to the general public at least
15 five days before proposals for such purchases are to be opened. Other methods
16 of advertisement, however, may be adopted by the commissioner of administration
17 when such other methods are deemed more advantageous for the supplies to be
18 purchased;

19 (2) Post notice of the proposed purchase; and

20 (3) Solicit proposals by mail or other reasonable method generally
21 available to the public from prospective offerors.

22 All proposals for such supplies shall be mailed or delivered to the office of the
23 commissioner of administration so as to reach such office before the time set for
24 opening proposals. Proposals shall be opened in a manner to avoid disclosure of
25 contents to competing offerors during the process of negotiation.

26 3. The contract shall be let to the lowest and best offeror as determined

27 by the evaluation criteria established in the request for proposal and any
28 subsequent negotiations conducted pursuant to this subsection. In determining
29 the lowest and best offeror, as provided in the request for proposals and under
30 rules promulgated by the commissioner of administration, negotiations may be
31 conducted with responsible offerors who submit proposals selected by the
32 commissioner of administration on the basis of reasonable criteria for the purpose
33 of clarifying and assuring full understanding of and responsiveness to the
34 solicitation requirements. Those offerors shall be accorded fair and equal
35 treatment with respect to any opportunity for negotiation and subsequent revision
36 of proposals. Revisions may be permitted after submission and before award for
37 the purpose of obtaining best and final offers. In conducting negotiations there
38 shall be no disclosure of any information derived from proposals submitted by
39 competing offerors. The commissioner of administration shall have the right to
40 reject any or all proposals and advertise for new proposals or purchase the
41 required supplies on the open market if they can be so purchased at a better
42 price.

43 4. The commissioner shall make available, upon request, to any members
44 of the general assembly, information pertaining to competitive proposals,
45 including the names of [bidders] **offerors** and the amount of each [bidder's]
46 **offeror's** offering for each contract.

34.044. 1. The commissioner of administration may waive the
2 requirement of competitive bids or proposals for supplies when the commissioner
3 has determined in writing that there is only a single feasible source for the
4 supplies. Immediately upon discovering that other feasible sources exist, the
5 commissioner shall rescind the waiver and proceed to procure the supplies
6 through the competitive processes as described in this chapter. A single feasible
7 source exists when:

8 (1) Supplies are proprietary and only available from the manufacturer or
9 a single distributor; or

10 (2) Based on past procurement experience, it is determined that only one
11 distributor services the region in which the supplies are needed; or

12 (3) Supplies are available at a discount from a single distributor for a
13 limited period of time.

14 2. **The following categories do not require a written**
15 **determination of single feasible source:**

16 (1) **Services of visiting speakers, professors, and performing**

17 artists;

18 (2) Works of art and historical items for museum and public
19 display;

20 (3) Published books, maps, periodicals, and technical pamphlets
21 for libraries;

22 (4) Regulated utility services;

23 (5) Trial use or testing specific items for suitability;

24 (6) Print, electronic, broadcast, or other media advertising.

25 3. On any single feasible source purchase where the estimated
26 expenditure shall be [five] **ten** thousand dollars or over, the commissioner of
27 administration shall post notice of the proposed purchase. Where the estimated
28 expenditure is [twenty-five] **one hundred** thousand dollars or over, the
29 commissioner of administration shall also advertise the commissioner's intent to
30 make such purchase in at least two daily newspapers of general circulation in
31 such places as are most likely to reach prospective bidders or offerors and may
32 provide such information through an electronic medium available to the general
33 public at least five days before the contract is to be let. Other methods of
34 advertisement, however, may be adopted by the commissioner of administration
35 when such other methods are deemed more advantageous for the supplies to be
36 purchased. The requirement for advertising may be waived, if not feasible, due
37 to the supplies being available at a discount for only a limited period of time.

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

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

10 3. The office of administration is designated the "Missouri State Agency
11 for Surplus Property" as required by Public Law 152, eighty-first Congress as
12 amended, and related laws for disposal of surplus federal property. All the
13 powers, duties and functions vested by sections 37.075 and 37.080, and others,
14 are transferred by type I transfer to the office of administration as well as all
15 property and personnel related to the duties. The commissioner shall integrate

16 the program of disposal of federal surplus property with the processes of disposal
17 of state surplus property to provide economical and improved service to state and
18 local agencies of government. The governor shall fix the amount of bond required
19 by section 37.080. All employees transferred shall be covered by the provisions
20 of chapter 36, RSMo, and the Omnibus State Reorganization Act of 1974.

21 4. The commissioner of administration shall replace the director of
22 revenue as a member of the board of fund commissioners and assume all duties
23 and responsibilities assigned to the director of revenue by sections 33.300 to
24 33.540, RSMo, relating to duties as a member of the board and matters relating
25 to bonds and bond coupons.

26 5. All the powers, duties and functions of the administrative services
27 section[, section 33.580, RSMo,] and others, are transferred by a type I transfer
28 to the office of administration and the administrative services section is
29 abolished.

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

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

46 8. [The commissioner of administration shall make the selection of a
47 personnel director from the names of the three highest ranking available eligibles
48 as provided in section 36.080, RSMo. The personnel advisory board, the
49 personnel division and the personnel director in the office of administration shall
50 retain the functions, duties and powers prescribed in chapter 36,
51 RSMo. Members of the personnel advisory board shall be nominated by the

52 commissioner of administration and appointed by the governor with the advice
53 and consent of the senate.

54 9.] The commissioner of administration is hereby authorized to coordinate
55 and control the acquisition and use of electronic data processing (EDP) and
56 automatic data processing (ADP) in the executive branch of state
57 government. For this purpose, the office of administration will have authority to:

58 (1) Develop and implement a long-range computer facilities plan for the
59 use of EDP and ADP in Missouri state government. Such plan may cover, but is
60 not limited to, operational standards, standards for the establishment, function
61 and management of service centers, coordination of the data processing education,
62 and planning standards for application development and implementation;

63 (2) Approve all additions and deletions of EDP and ADP hardware,
64 software, and support services, and service centers;

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

69 (4) Review of all state EDP and ADP applications to assure conformance
70 with the state information systems plan, and the information systems plans of
71 state agencies and service centers;

72 (5) Establish procurement procedures for EDP and ADP hardware,
73 software, and support service;

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

76 (7) Establish procedures for the receipt of service center charges and
77 payments for operation of the service centers. The commissioner shall maintain
78 a complete inventory of all state-owned or -leased EDP and ADP equipment, and
79 annually submit a report to the general assembly which shall include starting
80 and ending EDP and ADP costs for the fiscal year previously ended, and the
81 reasons for major increases or variances between starting and ending costs. The
82 commissioner shall also adopt, after public hearing, rules and regulations
83 designed to protect the rights of privacy of the citizens of this state and the
84 confidentiality of information contained in computer tapes or other storage
85 devices to the maximum extent possible consistent with the efficient operation of
86 the office of administration and contracting state agencies.

87 [10.] 9. Except as provided in subsection [13] 12 of this section, the fee

88 title to all real property now owned or hereafter acquired by the state of Missouri,
89 or any department, division, commission, board or agency of state government,
90 other than real property owned or possessed by the state highways and
91 transportation commission, conservation commission, state department of natural
92 resources, and the University of Missouri, shall on May 2, 1974, vest in the
93 governor. The governor may not convey or otherwise transfer the title to such
94 real property, unless such conveyance or transfer is first authorized by an act of
95 the general assembly. The provisions of this subsection requiring authorization
96 of a conveyance or transfer by an act of the general assembly shall not, however,
97 apply to the granting or conveyance of an easement to any rural electric
98 cooperative [as defined] in chapter 394, RSMo, municipal corporation,
99 quasi-governmental corporation owning or operating a public utility, or a public
100 utility, except railroads, as defined in chapter 386, RSMo. The governor, with the
101 approval of the board of public buildings, may, upon the request of any state
102 department, agency, board or commission not otherwise being empowered to make
103 its own transfer or conveyance of any land belonging to the state of Missouri
104 which is under the control and custody of such department, agency, board or
105 commission, grant or convey without further legislative action, for such
106 consideration as may be agreed upon, easements across, over, upon or under any
107 such state land to any rural electric cooperative, as defined in chapter 394, RSMo,
108 municipal corporation, or quasi-governmental corporation owning or operating a
109 public utility, or a public utility, except railroad, as defined in chapter 386,
110 RSMo. The easement shall be for the purpose of promoting the general health,
111 welfare and safety of the public and shall include the right of ingress or egress
112 for the purpose of constructing, maintaining or removing any pipeline, power line,
113 sewer or other similar public utility installation or any equipment or
114 appurtenances necessary to the operation thereof, except that railroad as defined
115 in chapter 386, RSMo, shall not be included in the provisions of this subsection
116 unless such conveyance or transfer is first authorized by an act of the general
117 assembly. The easement shall be for such consideration as may be agreed upon
118 by the parties and approved by the board of public buildings. The attorney
119 general shall approve the form of the instrument of conveyance. The
120 commissioner of administration shall prepare management plans for such
121 properties in the manner set out in subsection 7 of this section.

122 **[11.] 10.** The commissioner of administration shall administer a revolving
123 "Administrative Trust Fund" which shall be established by the state treasurer

124 which shall be funded annually by appropriation and which shall contain moneys
125 transferred or paid to the office of administration in return for goods and services
126 provided by the office of administration to any governmental entity or to the
127 public. The state treasurer shall be the custodian of the fund, and shall approve
128 disbursements from the fund for the purchase of goods or services at the request
129 of the commissioner of administration or the commissioner's designee. The
130 provisions of section 33.080, RSMo, notwithstanding, moneys in the fund shall not
131 lapse, unless and then only to the extent to which the unencumbered balance at
132 the close of any fiscal year exceeds [one-twelfth] **one-fourth** of the total amount
133 appropriated, paid, or transferred to the fund during such fiscal year. The
134 commissioner shall prepare an annual report of all receipts and expenditures
135 from the fund.

136 [12.] 11. All the powers, duties and functions of the department of
137 community affairs relating to statewide planning are transferred by type I
138 transfer to the office of administration.

139 [13.] 12. The titles which are vested in the governor by or pursuant to
140 this section to real property assigned to any of the educational institutions
141 referred to in section 174.020, RSMo, on June 15, 1983, are hereby transferred to
142 and vested in the board of regents of the respective educational institutions, and
143 the titles to real property and other interests therein hereafter acquired by or for
144 the use of any such educational institution, notwithstanding provisions of this
145 section, shall vest in the board of regents of the educational institution. The
146 board of regents may not convey or otherwise transfer the title to or other interest
147 in such real property unless the conveyance or transfer is first authorized by an
148 act of the general assembly, except as provided in section 174.042, RSMo, and
149 except that the board of regents may grant easements over, in and under such
150 real property without further legislative action.

151 [14.] 13. Notwithstanding any provision of subsection [13] 12 of this
152 section to the contrary, the board of governors of Missouri Western State
153 University, Central Missouri State University, Missouri State University, or
154 Missouri Southern State University; or the board of regents of Southeast Missouri
155 State University, Northwest Missouri State University, or Harris-Stowe State
156 University; or the board of curators of Lincoln University may convey or
157 otherwise transfer, except in fee simple, the title to or other interest in such real
158 property without authorization by an act of the general assembly. The provisions
159 of this subsection shall expire August 28, 2011.

160 [15.] 14. All county sports complex authorities, and any sports complex
161 authority located in a city not within a county, in existence on August 13, 1986,
162 and organized under the provisions of sections 64.920 to 64.950, RSMo, are
163 assigned to the office of administration, but such authorities shall not be subject
164 to the provisions of subdivision (4) of subsection 6 of section 1 of the Omnibus
165 State Reorganization Act of 1974, Appendix B, RSMo, as amended.

166 [16.] 15. All powers, duties, and functions vested in the administrative
167 hearing commission, sections 621.015 to 621.205, RSMo, and others, are
transferred to the office of administration by a type III transfer.

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

13 2. The governor shall appoint the commissioner of administration with the
14 advice and consent of the senate. The commissioner shall be at least thirty years
15 of age and must have been a resident and qualified voter of this state for the five
16 years next preceding his appointment. He must be qualified by training and
17 experience to assume the managerial and administrative functions of the office
18 of commissioner of administration.

19 3. The commissioner of administration shall, by virtue of his office,
20 without additional compensation, head the division of budget, the division of
21 purchasing, the division of **facilities management**, design and construction,
22 and the division of electronic data processing coordination. Whenever provisions
23 of the constitution grant powers, impose duties or make other reference to the
24 comptroller, they shall be construed as referring to the commissioner of
25 administration.

26 4. The commissioner of administration shall provide the governor with
27 such assistance in the supervision of the executive branch of state government as

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

40 5. The personnel division, personnel director and personnel advisory board
41 as provided in chapter 36, RSMo, shall be in the office of administration. The
42 personnel director and employees of the personnel division shall perform such
43 duties as directed by the commissioner of administration for personnel work in
44 agencies and departments of state government not covered by the merit system
45 law to upgrade state employment and to improve the uniform quality of state
46 employment.

47 6. The commissioner of administration shall prepare a complete inventory
48 of all real estate, buildings and facilities of state government and an analysis of
49 their utilization. Each year he shall formulate and submit to the governor a
50 long-range plan for the ensuing five years for the repair, construction and
51 rehabilitation of all state properties. The plan shall set forth the projects
52 proposed to be authorized in each of the five years with each project ranked in the
53 order of urgency of need from the standpoint of the state as a whole and shall be
54 upgraded each year. Project proposals shall be accompanied by workload and
55 utilization information explaining the need and purpose of each. Departments
56 shall submit recommendations for capital improvement projects and other
57 information in such form and at such times as required by the commissioner of
58 administration to enable him to prepare the long-range plan. The commissioner
59 of administration shall prepare the long-range plan together with analysis of
60 financing available and suggestions for further financing for approval of the
61 governor who shall submit it to the general assembly. The long-range plan shall
62 include credible estimates for operating purposes as well as capital outlay and
63 shall include program data to justify need for the expenditures included. The

64 long-range plan shall be extended, revised and resubmitted in the same manner
65 to accompany each executive budget. The appropriate recommendations for the
66 period for which appropriations are to be made shall be incorporated in the
67 executive budget for that period together with recommendations for
68 financing. Each revised long-range plan shall provide a report on progress in the
69 repair, construction and rehabilitation of state properties and of the operating
70 purposes program for the preceding fiscal period in terms of expenditures and
71 meeting program goals.

72 7. All employees of the office of administration, except the commissioner
73 and not more than three other executive positions designated by the governor in
74 an executive order, shall be subject to the provisions of chapter 36, RSMo. The
75 commissioner shall appoint all employees of the office of administration and may
76 discharge the employees after proper hearing, provided that the employment and
77 discharge conform to the practices governing selection and discharge of employees
78 in accordance with the provisions of chapter 36, RSMo.

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

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

**37.451. 1. There is hereby created in the state treasury the "Fleet
2 Management Fund", which shall be administered by the commissioner
3 of administration.**

**4 2. The state treasurer shall be the custodian of the fund. In
5 accordance with sections 30.120 and 30.180, RSMo, the state treasurer
6 may approve disbursements. The state treasurer shall credit to and
7 deposit in the fleet management funds the following:**

**8 (1) All amounts received from agencies for the state vehicle fleet
9 fee under subsection 7 of section 37.450;**

**10 (2) Funds recovered for damage done to state fleet vehicles from
11 a third party or their insurer;**

**12 (3) Any amounts received from the sale of state surplus vehicles
13 under section 37.452; and**

**14 (4) Any other funds appropriated by the general assembly for the
15 purposes of administering sections 37.450 to 37.452.**

16 **3. Notwithstanding the provisions of section 33.080, RSMo, to the**
17 **contrary, any moneys remaining in the fund at the end of the biennium**
18 **shall not revert to the credit of the general revenue fund. The state**
19 **treasurer shall invest moneys in the fund in the same manner as other**
20 **funds are invested. Any interest and money earned on such**
21 **investments shall be credited to the fund.**

 37.452. Provisions of section 37.090 notwithstanding, all proceeds
2 generated by the sale of a surplus vehicle, except proceeds generated from the
3 department of transportation, the department of conservation, the Missouri state
4 highway patrol and all state colleges and universities may be deposited in the
5 state treasury to the credit of the [office of administration revolving
6 administrative trust] **fleet management fund established in section 37.451**
7 and credited to the state agency owning the vehicle at the time of sale. Upon
8 appropriation, moneys credited to agencies from the sale of surplus state fleet
9 vehicles shall be used solely for the purchase **or repair** of vehicles for the
10 respective agency **subject to the approval of the fleet manager and for the**
11 **purposes of administering sections 37.450 to 37.452.**

 44.237. 1. In addition to its responsibilities listed in sections 44.225 to
2 44.237, the commission shall undertake a study to determine the feasibility of
3 establishing a comprehensive program of earthquake hazard reduction having as
4 its purposes the saving of lives and mitigating damage to property in Missouri.

5 2. The study shall accomplish the following tasks:

6 (1) Earthquake hazard reduction. The study shall develop a
7 comprehensive program for the reduction of earthquake hazards in Missouri. It
8 shall include, but not necessarily be limited to, the following:

9 (a) A review of and recommendations for improving the development and
10 implementation of technically and economically feasible codes, standards and
11 procedures for the design and construction of new structures and the
12 strengthening of existing structures so as to increase the earthquake resistance
13 of structures located in areas of significant seismic hazard;

14 (b) A review of current methods and recommendations for new methods
15 to improve the development, publication and promotion, in conjunction with local
16 officials, research organizations and professional organizations, of model codes
17 and other means to provide better information about seismic hazards to guide
18 land-use policy decisions and building activity;

19 (c) A review of and recommendations for methods, practices and

20 procedures to educate the public, including local officials, about the nature and
21 consequences of earthquakes, about procedures for identifying those locations and
22 structures especially susceptible to earthquake damage and about ways to reduce
23 and mitigate the adverse effects of an earthquake;

24 (d) A review of and recommendations for programs and techniques to
25 improve preparedness for and response to damaging earthquakes with special
26 attention being given to hazard control measures, pre-earthquake emergency
27 planning, readiness of emergency services and planning for post-earthquake
28 reconstruction and redevelopment.

29 (2) Implementation processes. With respect to implementation of
30 earthquake hazard reduction, the study shall include the following:

31 (a) Recommendations for new roles, responsibilities and programs for
32 state and local agencies, universities, private organizations and volunteer
33 organizations, including goals, priorities and expenditures of future state funds
34 specifically identified for the recommended hazards reduction program;

35 (b) Recommendations for methods and procedures to disseminate and
36 implement basic and applied earthquake research in order to achieve higher
37 levels of seismic safety.

38 (3) Coordination with other agencies. To the extent it is practical to do
39 so, the study required by this section shall be coordinated with the relevant local,
40 regional and federal government agencies, key elements of the private sector, and
41 at least the following state agencies: state emergency management agency,
42 division of geology and land survey, division of **facilities management**, design
43 and construction, Missouri housing development commission, department of
44 natural resources, department of labor and industrial relations, public service
45 commission, department of health and senior services, office of the state fire
46 marshal, department of transportation, department of revenue, office of the
47 adjutant general, department of insurance, and the department of elementary and
48 secondary education.

49 3. The study shall include recommendations for statutory changes and
50 specific executive actions to be taken by state and local agencies necessary to
51 establish and implement an earthquake hazards reduction program for the state
52 of Missouri.

53 4. The commission shall submit the study to the general assembly by June
54 30, 1997, or earlier at its discretion.

217.575. 1. All goods manufactured, services provided or produce of the

2 vocational enterprises program of the state shall, upon the requisition of the
3 proper official, be furnished to the state, to any public institution owned,
4 managed or controlled by the state, or to any private entity that is leasing space
5 to any agency of the state government for use in space leased to the state agency,
6 at such prices as shall be determined as provided in subsection 4 of this section.

7 2. No goods or services so manufactured, provided or produced shall be
8 purchased from any other source for the state or public institutions of the state
9 unless the department shall certify the goods or services included in the
10 requisition cannot be furnished or supplied by the vocational enterprises program
11 within ninety days, or, in the event the same goods or services cannot be procured
12 on the open market within ninety days, that the vocational enterprises program
13 cannot supply them within a reasonable time. No claims for the payment of such
14 goods or services shall be audited or paid without this certificate. One copy each
15 of the requisition or certificate shall be retained by the department.

16 3. The division of purchasing and the division of **facilities management**,
17 design and construction shall cooperate with the department in seeking to
18 promote for use by state agencies and in state-owned or -occupied facilities the
19 products manufactured and services provided by the vocational enterprises
20 program.

21 4. The vocational enterprises program shall fix and determine the prices
22 at which goods and produce so manufactured and produced and services so
23 provided shall be furnished, and the prices shall be uniform to all. The cost shall
24 not be fixed at more than the market price for like goods and services.

25 5. Any differences between the vocational enterprises program and the
26 state, its departments, divisions, agencies, institutions, or the political
27 subdivisions of the state as to style, design, price or quality of goods shall be
28 submitted to arbitrators whose decision shall be final. One of the arbitrators
29 shall be named by the program, one by the office, department, political
30 subdivision or institution concerned, and one by agreement of the other two. The
31 arbitrators shall receive no compensation; however, their necessary expenses
32 shall be paid by the office, department, political subdivision or institution against
33 which the award is given, or, in the event of a compromise decision, by both
34 parties, the amount to be paid by each party in portions to be determined by the
35 arbitrators.

36 6. The vocational enterprises program may sell office systems and
37 furniture to any department, agency, or institution of the state or any political

38 subdivision of the state either through outright purchase or through payment
39 plan agreement, including handling charges, over a specified number of months
40 contingent on the solvency of the working capital revolving fund. Prior approval
41 shall be required by the division of **facilities management**, design and
42 construction for state agencies in situations where the office of administration
43 controlled state-owned office space is involved and space in which a lease contract
44 executed by the office of administration is in effect.

251.240. The division of **facilities management**, design and construction
2 shall furnish office space for the state office; the headquarters office shall be
3 located in Jefferson City, Missouri.

253.320. Any lease granted under the provisions of sections 253.290 to
2 253.320 shall be conditioned as follows and also contain such provisions as the
3 attorney general may prescribe:

4 (1) The director of the department of natural resources shall retain the
5 right to enter upon the lands at all times;

6 (2) The director shall control the style of architecture used in construction
7 on the lands, and the quality of materials used in said construction shall be
8 approved by the director of the division of **facilities management**, design and
9 construction for the state of Missouri, and may control all fees and prices charged
10 to the public as may be required by the director;

11 (3) The director shall inspect and audit the books and records of the lessee
12 at least once every two years;

13 (4) The lessee shall provide such care, maintenance, repair, conservation
14 and improvement of the lands and shall render such services to the public as may
15 be required by the director;

16 (5) The lessee shall keep true and accurate records of his receipts and
17 disbursements arising out of the operation of facilities upon the leased lands and
18 shall permit the director to inspect and audit them at all reasonable times;

19 (6) Nothing in sections 253.290 to 253.320 shall be construed as denying
20 the lessees the right to execute mortgages and other evidences of interest in or
21 indebtedness upon their leasehold interest or properties thereon for the purpose
22 of installing, enlarging or improving plant and equipment and extending facilities
23 for the accommodation of the public within said state park; provided, however,
24 that no such mortgage or other encumbrance shall be valid unless authorized and
25 approved by the written order of the director; and further provided that the
26 period for payment of such mortgage or indebtedness shall not extend beyond the

27 lease period, and that no obligation or indebtedness shall incur to the state.

253.510. 1. At least one thousand five hundred thirty-two acres of the
2 total amount of five thousand one hundred twenty-two acres accepted pursuant
3 to the acceptance authorized by subdivision (1) of section 253.500 shall be sold as
4 provided in this section. An additional two hundred acres may be sold if such
5 sale is approved by the committee established by the provisions of subsection 2.

6 2. Title to those lands shall vest in the governor. All or portions of the
7 one thousand seven hundred thirty-two acres shall be sold upon the
8 recommendation of a committee composed of one member of the house of
9 representatives, appointed by the speaker, one member of the senate, appointed
10 by the president pro tem of the senate, and the governor or his representative.
11 Specific authorization is hereby given for the sale of such lands, and, the
12 provisions of subsection [10] 9 of section 37.005, RSMo, the contrary
13 notwithstanding, the governor, after recommendation by the committee, may
14 transfer title to such land without specific legislative approval for each individual
15 parcel sold. Any such conveyance shall be signed by the governor, and the form
16 of the instrument of conveyance shall be approved by the attorney general.

261.010. There is created a "Department of Agriculture", the main office
2 of which shall be in Jefferson City in quarters provided by the division of
3 **facilities management**, design and construction. The governor, by and with the
4 advice and consent of the senate, shall appoint a director of the department of
5 agriculture who shall be a practical farmer, well versed in agricultural science
6 and who shall serve at the pleasure of the governor. The director shall be in
7 charge of the department of agriculture.

311.650. The principal office of the supervisor of liquor control shall be at
2 the seat of government at Jefferson City, and the director of the division of
3 **facilities management**, design and construction at the capitol shall provide
4 offices for the liquor control department.

313.210. The "State Lottery Commission" is hereby created. The
2 commission shall control and manage the state lottery. The principal office of the
3 commission shall be located in Jefferson City in quarters provided by the division
4 of **facilities management**, design and construction. That division shall also
5 arrange for other needed office space for the commission or its staff. The
6 commission shall be assigned to the department of revenue as a type III division,
7 but the director of the department of revenue has no supervision, authority or
8 control over the actions or decisions of the lottery commission or the director of

9 the state lottery.

320.260. The division of **facilities management**, design and construction
2 shall provide office space for the state fire marshal and his employees.

334.125. 1. The board shall have a common seal and shall formulate rules
2 and regulations to govern its actions. Provision shall be made by the division of
3 **facilities management**, design and construction for office facilities in Jefferson
4 City, Missouri, where the records and register of the board shall be maintained.

5 2. No rule or portion of a rule promulgated under the authority of this
6 chapter shall become effective unless it has been promulgated pursuant to the
7 provisions of section 536.024, RSMo.

361.010. 1. There is hereby created a "State Division of Finance", which
2 shall be under the management and control of a chief officer who shall be called
3 the "Director of Finance".

4 2. The director of finance shall maintain his office at the City of Jefferson,
5 reside in the state of Missouri, and shall devote all of his time to the duties of his
6 office. The division of **facilities management**, design and construction is
7 hereby required to provide the director of finance and the state division of finance
8 with suitable rooms.

630.525. If any major building standing on property under the supervision
2 and control of the department is in such a state of dilapidation or disrepair as to
3 be, in the opinion of the director, dangerous to patients or residents, employees
4 of the department or other persons frequenting such property, the department
5 may, with the approval of the division of **facilities management**, design and
6 construction and, if necessary, with appropriations for this purpose from the
7 general assembly, cause such building to be torn down or razed. For such
8 purpose, the department may contract with any person under the rules and
9 regulations of the division of purchasing, and may sell or otherwise dispose of the
10 materials composing such building.

[8.120. There is hereby created within the office of
2 administration a "Division of Design and Construction", which shall
3 supervise the design, construction, renovations and repair of state
4 facilities, except as provided in sections 8.015 and 8.017, and
5 except in those belonging to the institutions of higher education
6 and the department of conservation. The division of design and
7 construction shall be responsible to review all requests for
8 appropriations for capital improvements.]

2 [34.065. Where, because of the large number of possible
3 bidders for a particular purchase, it is impractical to submit a
4 request for a bid to all possible bidders each time a bid is
5 requested, request shall be made in rotation pursuant to the
6 regulation of the commissioner of administration so as ultimately
7 to include all the possible bidders, except that recognized
8 competitive bidders shall be solicited in each instance.]

2 [34.130. On or before May first of each year, each
3 department shall submit to the commissioner of administration a
4 classified list of its estimated needs for supplies for the following
5 fiscal year. The commissioner of administration shall consolidate
6 these and may purchase the entire amount or such part thereof at
7 one time as he shall deem best. Any contract for such purchases
8 may provide only the price at which the supplies needed during the
9 year shall be purchased and that the supplies shall be delivered in
10 such amounts and at such times as ordered throughout the year
11 and be paid for at such time and for such amounts as delivered. In
12 such case, certification from the commissioner of administration
13 and the auditor shall be required only for the amount ordered at
14 any time.]

2 Section B. Because immediate action is necessary to ensure the transfer
3 of state services, section A of this act is deemed necessary for immediate
4 preservation of the public health, welfare, peace, and safety, and is hereby
5 declared to be an emergency act within the meaning of the constitution, and
6 section A of this act shall be in full force and effect upon its passage and
7 approval.

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