

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 1057

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHIELDS.

Offered April 13, 2010.

Senate Substitute adopted, April 13, 2010.

Taken up for Perfection April 13, 2010. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

5300S.04P

AN ACT

To repeal sections 32.028, 36.031, 36.050, 36.060, 36.150, 36.280, 36.370, 36.380, 36.390, 36.400, 43.040, 43.050, 58.445, 105.055, 301.716, 306.010, 306.161, 306.163, 306.165, 306.167, 306.168, 306.185, 306.227, 306.228, 306.229, 306.230, 306.232, 311.615, 407.924, 542.261, 544.157, 577.090, 621.015, and 650.005, RSMo, and to enact in lieu thereof thirty-two new sections relating to reorganization within certain state departments, with penalty provisions, an effective date for certain sections and an emergency clause for a certain section.

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

Section A. Sections 32.028, 36.031, 36.050, 36.060, 36.150, 36.280, 36.370, 2 36.380, 36.390, 36.400, 43.040, 43.050, 58.445, 105.055, 301.716, 306.010, 306.161, 3 306.163, 306.165, 306.167, 306.168, 306.185, 306.227, 306.228, 306.229, 306.230, 4 306.232, 311.615, 407.924, 542.261, 544.157, 577.090, 621.015, and 650.005, 5 RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be 6 known as sections 21.940, 32.028, 36.031, 36.050, 36.060, 36.150, 36.280, 36.370, 7 36.380, 36.390, 36.400, 37.040, 37.600, 43.040, 43.050, 43.390, 58.445, 105.055, 8 301.716, 306.010, 306.165, 306.167, 306.168, 306.185, 311.615, 407.924, 542.261, 9 544.157, 577.090, 621.015, 621.075, and 650.005, to read as follows:

21.940. 1. There is established a "Health and Human Services
2 **Transition Committee" to study and make recommendations by**

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

3 **December 31, 2010, on consolidating the departments of health and**
4 **senior services, mental health, and social services into one department.**

5 **2. The members of the committee shall consist of fourteen**
6 **members as follows:**

7 **(1) The directors of the departments of health and senior**
8 **services, mental health, and social services;**

9 **(2) Two members of the house of representatives, one from each**
10 **party, appointed by the speaker of the house of representatives;**

11 **(3) Two members of the senate, one from each party, appointed**
12 **by the president pro tem of the senate;**

13 **(4) Three representatives who are consumers or families of**
14 **consumers interested in the services provided by each of the**
15 **departments of health and senior services, mental health, and social**
16 **services;**

17 **(5) Three providers of services provided by the each of the**
18 **departments of health and senior services, mental health, and social**
19 **services;**

20 **(6) One public member; and**

21 **(7) The directors of the departments of health and senior**
22 **services, mental health, and social services; or the respective directors'**
23 **designees, who shall serve as ex-officio members of the committee.**

24 **3. Members shall serve on the committee without**
25 **compensation. The departments of health and senior services, mental**
26 **health, and social services shall provide technical and administrative**
27 **support services for the committee. The duties of the committee are to**
28 **make recommendations on:**

29 **(1) Efficiencies that could be made within programs**
30 **administered by the three departments;**

31 **(2) Any programs administered or overseen by the three**
32 **departments that should be eliminated, reduced, or combined with**
33 **another program or programs, particularly programs involving MO**
34 **HealthNet services; and**

35 **(3) A plan for reducing expenditures within each program**
36 **administered or overseen by the three departments for fiscal year 2012**
37 **from fiscal year 2011 levels at increments of five percent up to twenty-**
38 **five percent.**

39 **4. The provisions of this section shall expire on January 1, 2011.**

32.028. 1. There is hereby created a department of revenue in charge of
2 a director appointed by the governor, by and with the advice and consent of the
3 senate. The department shall collect all taxes and fees payable to the state as
4 provided by law.

5 2. The powers, duties and functions of the department of revenue, chapter
6 32, RSMo and others, are transferred by type I transfer to the department of
7 revenue. All powers, duties and function of the collector of revenue are
8 transferred to the director of the department by type I transfer and the position
9 of collector of revenue is abolished.

10 3. The powers, duties and functions of the state tax commission, chapter
11 138, RSMo and others, are transferred by type III transfer to the department of
12 revenue.

13 4. All of the powers, duties and functions of the state tax commission
14 relating to administration of the corporation franchise tax chapter 152, RSMo and
15 others, are transferred by type I transfer to the department of revenue; provided,
16 however, that the provision of section 138.430, RSMo relating to appeals from
17 decisions of the director of revenue shall apply to these taxes.

18 5. All the powers, duties and functions of the highway reciprocity
19 commission, chapter 301, RSMo, are transferred by type II transfer to the
20 department of revenue.

21 **6. All the powers, duties and functions of the division of alcohol**
22 **and tobacco control, chapters 311 and 407, are transferred by type I**
23 **transfer to the department of revenue. The supervisor of the division**
24 **shall be appointed by the governor with the advice and consent of the**
25 **senate. The supervisor shall appoint such agents, assistants, deputies**
26 **and inspectors as limited by appropriations. All employees shall have**
27 **the qualifications provided by law and may be removed by the**
28 **supervisor with the advice and consent of the director of the**
29 **department, notwithstanding the provisions of section 311.670.**

36.031. Any provision of law to the contrary notwithstanding, except for
2 the elective offices, institutions of higher learning, the department of
3 transportation, the department of conservation, those positions in the Missouri
4 state highway patrol the compensation of which is established by subdivision (2)
5 of subsection 2 of section 43.030, RSMo, and section 43.080, RSMo, [those
6 positions in the Missouri state water patrol the compensation of which is
7 established by section 306.229, RSMo,] those positions in the division of finance

8 and the division of credit unions compensated through a dedicated fund obtained
9 from assessments and license fees under sections 361.170 and 370.107, RSMo,
10 and those positions for which the constitution specifically provides the method of
11 selection, classification, or compensation, and the positions specified in subsection
12 1 of section 36.030, but including attorneys, those departments, agencies and
13 positions of the executive branch of state government which have not been subject
14 to these provisions of the state personnel law shall be subject to the provisions
15 of sections 36.100, 36.110, 36.120 and 36.130, and the regulations adopted
16 pursuant to sections 36.100, 36.110, 36.120 and 36.130 which relate to the
17 preparation, adoption and maintenance of a position classification plan, the
18 establishment and allocation of positions within the classification plan and the
19 use of appropriate class titles in official records, vouchers, payrolls and
20 communications. Any provision of law which confers upon any official or agency
21 subject to the provisions of this section the authority to appoint, classify or
22 establish compensation for employees shall mean the exercise of such authority
23 subject to the provisions of this section. This section shall not extend coverage
24 of any section of this chapter, except those specifically named in this section, to
25 any agency or employee. In accordance with sections 36.100, 36.110, 36.120 and
26 36.130, and after consultation with appointing authorities, the director of the
27 division of personnel shall conduct such job studies and job reviews and establish
28 such additional new and revised job classes as the director finds necessary for
29 appropriate classification of the positions involved. Such classifications and the
30 allocation of positions to classes shall be maintained on a current basis by the
31 division of personnel. The director of the division of personnel shall, at the same
32 time, notify all affected agencies of the appropriate assignment of each job
33 classification to one of the salary ranges within the pay plan then applicable to
34 merit system agencies. The affected agencies and employees in the classifications
35 set pursuant to this section shall be subject to the pay plan and rates of
36 compensation established and administered in accordance with the provisions of
37 this section, and the regulations adopted pursuant to this section, on the same
38 basis as for merit agency employees. In addition, any elected official, institution
39 of higher learning, the department of transportation, the department of
40 conservation, the general assembly, or any judge who is the chief administrative
41 officer of the judicial branch of state government may request the division of
42 personnel to study salaries within the requestor's office, department or branch of
43 state government for classification purposes.

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

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

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

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

35 5. Each public member of the board shall be paid an amount for each day
36 devoted to the work of the board which shall be determined by the commissioner

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

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

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

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

3 (1) [To conduct hearings and render decisions on appeals as provided in
4 this act;

5 (2)] To make any investigation which it may consider desirable concerning
6 the administration of personnel subject to this law;

7 [(3)] (2) To hold regular meetings with appointing authorities to propose
8 methods of resolving general personnel problems;

9 [(4)] (3) To make annual reports, and such special reports as it considers
10 desirable, to the governor and the general assembly regarding personnel
11 administration in the state service and recommendations there. These special
12 reports shall evaluate the effectiveness of the personnel division and the
13 appointing authority in their operations under this law;

14 [(5)] (4) To make such suggestions and recommendations to the governor
15 and the director relating to the state's employment policies as will promote
16 morale, efficiency and uniformity in compensation of the various employees in the

17 state service;

18 [(6)] (5) To promulgate rules and regulations to ensure that no applicant
19 or employee is discriminated against on the basis of race, creed, color, religion,
20 national origin, sex, ancestry or handicap.

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

 36.150. 1. Every appointment or promotion to a position covered by this
2 chapter shall be made on the basis of merit as provided in this
3 chapter. Demotions in and dismissals from employment shall be made for cause
4 under rules and regulations of the board uniformly applicable to all positions of
5 employment. No appointment, promotion, demotion or dismissal shall be made
6 because of favoritism, prejudice or discrimination. The regulations shall prohibit
7 discrimination in other phases of employment and personnel administration and
8 shall provide such remedy as is required by federal merit system standards for
9 grant-in-aid programs [and is not provided in chapter 296, RSMo].

10 2. Political endorsements shall not be considered in connection with any
11 such appointment.

12 3. No person shall use or promise to use, directly or indirectly, for any
13 consideration whatsoever, any official authority or influence to secure or attempt
14 to secure for any person an appointment or advantage in appointment to any such
15 position or an increase in pay, promotion or other advantage in employment.

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

24 5. No such employee shall be a candidate for nomination or election to any
25 partisan public office or nonpartisan office in conflict with that employee's duties
26 unless such person resigns, or obtains a regularly granted leave of absence, from
27 such person's position.

28 6. No person elected to partisan public office shall, while holding such
29 office, be appointed to any position covered by this chapter.

30 7. Any officer or employee in a position subject to this chapter who
31 purposefully violates any of the provisions of this section shall forfeit such office
32 or position. If an appointing authority finds that such a violation has occurred,
33 or is so notified by the director, this shall constitute cause for dismissal pursuant
34 to section 36.390 and a final determination by the [board] **administrative**
35 **hearing commission** as to the occurrence of a violation.

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

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

 36.370. 1. An appointing authority may, for disciplinary purposes,
2 suspend without pay any employee in his division for such length of time as he
3 considers appropriate, not exceeding twenty working days in any twelve-month
4 period except that this limitation shall not apply in the event of a terminal
5 suspension given in conjunction with a dismissal. In case of a suspension, the

6 director shall be furnished with a statement in writing specifically setting forth
7 the reasons for such suspension. Upon request, a copy of such statement shall
8 be furnished to such employee. With the approval of the director, any employee
9 may be suspended for a longer period pending the investigation or trial of any
10 charges against him. Any regular employee who is suspended for more than five
11 working days shall have the right to appeal to the [board] **administrative**
12 **hearing commission** as provided under section 36.390.

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

36.380. An appointing authority may dismiss for cause any employee in
2 his division occupying a position subject hereto when he considers that such
3 action is required in the interests of efficient administration and that the good
4 of the service will be served thereby. No dismissal of a regular employee shall
5 take effect unless, prior to the effective date thereof, the appointing authority
6 gives to such employee a written statement setting forth in substance the reason
7 therefor and files a copy of such statement with the director. When it is not
8 practicable to give the notice of dismissal to an employee in person, it may be
9 sent to the employee by certified or registered mail, return receipt requested, at
10 his last mailing address as shown in the personnel records of the appointing
11 authority. Proof of refusal of the employee to accept delivery or the inability of
12 postal authorities to deliver such mail shall be accepted as evidence that the
13 required notice of dismissal has been given. If the director determines that the
14 statement of reasons for the dismissal given by the appointing authority shows
15 that such dismissal does not reflect discredit on the character or conduct of the
16 employee, he may, upon request of the employee, approve reemployment under
17 section 36.240, in any class in which the employee has held regular status. Any
18 regular employee who is dismissed shall have the right to appeal to the [board]
19 **administrative hearing commission** as provided under section 36.390.

36.390. 1. An applicant whose request for admission to any examination
2 has been rejected by the director may appeal to the [board] **administrative**

3 **hearing commission** in writing within fifteen days of the mailing of the notice
4 of rejection by the director, and in any event before the holding of the
5 examination. The [board's] **commission's** decision on all matters of fact shall
6 be final.

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

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

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

31 5. Any regular employee who is dismissed or involuntarily demoted for
32 cause or suspended for more than five working days may appeal in writing to the
33 [board] **administrative hearing commission** within thirty days after the
34 effective date thereof, setting forth in substance the employee's reasons for
35 claiming that the dismissal, suspension or demotion was for political, religious,
36 or racial reasons, or not for the good of the service. [Upon such appeal, both the
37 appealing employee and the appointing authority whose action is reviewed shall
38 have the right to be heard and to present evidence at a hearing which, at the

39 request of the appealing employee, shall be public. At the hearing of such
40 appeals, technical rules of evidence shall not apply. After the hearing and
41 consideration of the evidence for and against a suspension, demotion, or
42 dismissal, the board shall approve or disapprove such action and may make any
43 one of the following appropriate orders:

44 (1) Order the reinstatement of the employee to the employee's former
45 position;

46 (2) Sustain the dismissal of such employee;

47 (3) Except as provided in subdivisions (1) and (2) of this subsection, the
48 board may sustain the dismissal, but may order the director to recognize
49 reemployment rights for the dismissed employee pursuant to section 36.240, in
50 an appropriate class or classes, or may take steps to effect the transfer of such
51 employee to an appropriate position in the same or another division of service.

52 6. Any order by the board under subsection 5 of this section shall be a
53 final decision on the merits and may be appealed as provided in chapter 536,
54 RSMo.

55 7. After an order of reinstatement has been issued and all parties have
56 let the time for appeal lapse or have filed an appeal and that appeal process has
57 become final and the order of reinstatement has been affirmed, the board shall
58 commence a separate action to determine the date of reinstatement and the
59 amount of back pay owed to the employee. This action may be done by hearing,
60 or by affidavit, depositions, or stipulations, or by agreement on the amount of
61 back pay owed. If the parties cannot reach an agreement as to how the parties
62 shall be heard on this separate action, then the board shall decide on the method
63 through its hearing officer. No hearing will be public unless requested to be
64 public by the employee.

65 8. The board shall establish such rules as may be necessary to give effect
66 to the provisions of this section. The rules may provide that the board or the
67 chairman of the board may delegate responsibility for the conduct of
68 investigations and the hearing of appeals provided pursuant to any section of this
69 chapter to a member of the board or to a hearing officer designated by the
70 board. Such hearing officer shall have the power to administer oaths, subpoena
71 witnesses, compel the production of records pertinent to any hearing, and take
72 any action in connection with such hearing which the board itself is authorized
73 to take by law other than making the final decision and appropriate order. When
74 the hearing has been completed, the individual board member or the hearing

75 officer who conducted the hearing shall prepare a summary thereof and
76 recommend a findings of fact, conclusions of law, decision and appropriate order
77 for approval of the board. The board may adopt such recommendations in whole
78 or in part, require the production of additional testimony, reassign the case for
79 rehearing, or may itself conduct such new or additional hearing as is deemed
80 necessary prior to rendering a final decision. The board may also establish rules
81 which provide for alternative means of resolving one or more of the types of
82 appeals outlined in this section.

83 9. The provisions for appeals provided in subsection 5 of this section for
84 dismissals of regular merit employees may be adopted by nonmerit agencies of the
85 state for any or all employees of such agencies.

86 10. Agencies not adopting the provisions for appeals provided in
87 subsection 5 of this section shall adopt dismissal procedures substantially similar
88 to those provided for merit employees. However, these procedures need not apply
89 to employees in policy-making positions, or to members of military or law
90 enforcement agencies.]

91 [11.] 6. Hearings under this section shall be deemed to be a contested
92 case and the procedures applicable to the processing of such hearings and
93 determinations shall be those established by chapter 536, RSMo. Decisions of the
94 [personnel advisory board] **administrative hearing commission** shall be final
95 and binding subject to appeal by either party. Final decisions of the [personnel
96 advisory board] **administrative hearing commission** pursuant to this
97 subsection shall be subject to review on the record by the circuit court pursuant
98 to chapter 536, RSMo.

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

**37.040. 1. By December 31, 2010, the commissioner of the office
2 of administration shall issue a report to the general assembly that
3 analyzes programs within every department that should be eliminated,
4 reduced, or combined with another program or programs.**

5 2. In order to conduct a complete analysis as required by
6 subsection 1 of this section, the director of each department shall
7 provide the commissioner with detailed information regarding the
8 following:

9 (1) Efficiencies that could be made within programs
10 administered by the department;

11 (2) Any programs administered or overseen by the department
12 that should be eliminated, reduced, or combined with another program
13 or programs; and

14 (3) A plan for reducing expenditures within each program
15 administered or overseen by the department for fiscal year 2012 from
16 fiscal year 2011 levels at increments of five percent up to twenty-five
17 percent.

18 3. The provisions of this section shall expire on January 1, 2011.

37.600. 1. There is hereby established the "Commission on the
2 Reorganization of State Health Care". The commission shall have as its
3 purpose the study, review, and recommendation of creating a "Division
4 of State Health Care" within the office of administration, which shall
5 be dedicated to providing health care coverage for all state employees,
6 dependents, and retirees and those recipients of programs provided in
7 subsection 4 of this section. The commission shall consist of nineteen
8 members:

9 (1) Two members of the senate, one appointed by the president
10 pro tem of the senate and one appointed by the senate minority floor
11 leader;

12 (2) Two members of the house of representatives, one appointed
13 by the speaker of the house of representatives and one appointed by
14 the house minority floor leader;

15 (3) The commissioner of the office of administration or the
16 commissioner's designee;

17 (4) The director of the department of insurance, financial
18 institutions and professional registration or the director's designee;

19 (5) The director of the MO HealthNet division or the director's
20 designee;

21 (6) The director of the department of health and senior services
22 or the director's designee;

23 (7) The director of the department of mental health or the

24 **director's designee;**

25 **(8) The director of the department of corrections or the director's**
26 **designee;**

27 **(9) The director of the department of social services or the**
28 **director's designee;**

29 **(10) The executive director of the Missouri consolidated health**
30 **care plan or the director's designee;**

31 **(11) One member of the state highways and transportation**
32 **commission;**

33 **(12) One member of the state conservation commission; and**

34 **(13) One member of the board of curators of the University of**
35 **Missouri;**

36 **(14) The commissioner of the coordinating board of higher**
37 **education or the commissioner's designee;**

38 **(15) One representative of the public four-year institutions of**
39 **higher education, excluding the University of Missouri, appointed by**
40 **the governor with the advice and consent of the senate; and**

41 **(16) Two individual representatives of small business in this**
42 **state, appointed by the governor with the advice and consent of the**
43 **senate.**

44 **2. Members of the commission shall be reimbursed for the actual**
45 **and necessary expenses incurred in the discharge of the member's**
46 **official duties. A chair of the commission shall be selected by the**
47 **members of the commission and shall meet as necessary. Commission**
48 **members shall not be related to any member of the general assembly or**
49 **governor within the third degree of consanguinity. The office of**
50 **administration shall provide technical, actuarial, and administrative**
51 **support services as required by the commission.**

52 **3. The commission shall designate a work group to provide**
53 **analysis on the recommendations required of the commission consisting**
54 **of members representing any health policy center or program from the**
55 **public institutions of higher education in the state.**

56 **4. The commission shall designate a work group consisting of**
57 **members of the Missouri school boards association, the Missouri**
58 **community colleges association, and small business organizations to**
59 **provide analysis for recommendations of the second and third phase of**
60 **the reorganization as described under subdivisions (3) and (4) of**

61 subsection 5 of this section.

62 5. The commission shall submit a report to the general assembly
63 and governor by December 31, 2010, on the creation of a "Division of
64 State Health Care" within the office of administration to serve, through
65 three implementation phases, as the lead planning state entity for all
66 health issues in the state. The commission's duties shall be as follows:

67 (1) Provide an analysis on whether the creation of a division of
68 state health care would:

69 (a) Remedy the current situation wherein the responsibility for
70 health care policy, purchasing, planning, and regulation is spread
71 among many different agencies and departments;

72 (b) Permit the state to maximize its purchasing power inasmuch
73 as the state now has none of its health care purchasing coordinated;

74 (c) Minimize duplication and maximize administrative efficiency
75 in the state's health care systems by removing overlapping functions
76 and streamlining uncoordinated programs;

77 (d) Allow the state to develop a better health care infrastructure
78 that is more responsive to the consumers it serves while improving
79 access to and coverage for health care; and

80 (e) Focus more attention and divisional procedures on the issue
81 of wellness, including diet, exercise, and personal responsibility;

82 (2) Make recommendations on granting the division of state
83 health care, during a first phase, the authority to carry out all powers,
84 duties, and functions previously performed by:

85 (a) The Mo HealthNet division under section 208.201;

86 (b) The state highways and transportation commission, relating
87 to the furnishing of health insurance benefits to cover medical
88 expenses for members of the highways and transportation employees'
89 and highway patrol retirement system;

90 (c) The board of trustees of the Missouri consolidated health care
91 plan pursuant to chapter 103;

92 (d) The department of social services, relating to the
93 administration of a program to pay for health care for uninsured
94 children under sections 208.631 to 208.657;

95 (e) The state conservation commission, relating to the furnishing
96 of health insurance for department of conservation employees and their
97 dependents and retirees;

98 **(f) The public four-year institutions of higher education,**
99 **excluding the University of Missouri, relating to the furnishing of**
100 **health insurance plans for employees of such institutions and their**
101 **dependents and retirees; and**

102 **(g) The board of curators of the University of Missouri, relating**
103 **to the furnishing of health insurance plans for employees of the**
104 **university system and their dependents and retirees;**

105 **(3) Investigate coordinating and purchasing health care benefit**
106 **plans, during a second phase, for employees of the public schools,**
107 **community colleges, political subdivisions of the state, and all such**
108 **employees' dependents; and**

109 **(4) Investigate the feasibility of creating and administering**
110 **insurance programs in a third phase for small businesses and the**
111 **uninsured in this state.**

112 **6. The provisions of this section shall expire on February 1, 2011.**

43.040. The superintendent shall appoint from the membership of the
2 patrol one lieutenant colonel and [~~five~~] **six** majors, who shall have the same
3 qualifications as the superintendent, and who may be relieved of the rank of
4 lieutenant colonel or major, as the case may be, and the duties of the position by
5 the superintendent at his pleasure.

43.050. 1. The superintendent may appoint not more than [~~twenty-five~~]
2 **thirty-four** captains and one director of radio, each of whom shall have the same
3 qualifications as the superintendent, nor more than [~~sixty~~] **sixty-eight**
4 lieutenants, and such additional force of sergeants, corporals and patrolmen, so
5 that the total number of members of the patrol shall not exceed [~~nine hundred~~
6 **sixty-five**] **one thousand sixty-four** officers and patrolmen and such numbers
7 of radio personnel as the superintendent deems necessary.

8 2. In case of a national emergency the superintendent may name
9 additional patrolmen and radio personnel in a number sufficient to replace,
10 temporarily, patrolmen and radio personnel called into military services.

11 3. The superintendent may enter into an agreement with the Missouri
12 gaming commission to enforce any law, rule, or regulation, conduct background
13 investigations under the laws of this state, and enforce the regulations of licensed
14 gaming activities governed by chapter 313, RSMo. A notice of either party to
15 terminate or modify the provisions of such agreement shall be in writing and
16 executed not less than one year from the effective date of the termination or

17 modification, unless mutually agreed upon by the superintendent and the
18 Missouri gaming commission. Members of the patrol hired in conjunction with
19 any agreement with the Missouri gaming commission shall not be subject to the
20 personnel cap referenced in subsection 1 of this section. If such agreement is
21 subsequently terminated or modified to reduce the number of personnel used in
22 such agreement, those members affected by such termination or modification shall
23 not be subject to the personnel cap referenced in subsection 1 of this section for
24 a period of five years.

25 4. Member positions of the patrol originally acquired in conjunction with
26 the community-oriented policing services federal grant or members assigned to
27 fulfill the duties established in sections 43.350 to 43.380 shall not be subject to
28 the personnel cap referenced in subsection 1 of this section.

29 5. Applicants shall not be discriminated against because of race, creed,
30 color, national origin or sex.

**43.390. 1. Notwithstanding the provisions of subsection 1 of
2 section 43.025, there is hereby created within the Missouri state
3 highway patrol a "Division of Water Patrol".**

4 **2. The superintendent of the Missouri state highway patrol shall
5 appoint a director of the division of water patrol who shall be
6 responsible for the operation of the division.**

7 **3. The superintendent of the Missouri state highway patrol may
8 assign highway patrol members under the superintendent's command
9 to serve in the division of water patrol on a permanent or temporary
10 basis.**

11 **4. All officers assigned to the division of water patrol shall be
12 vested with the powers prescribed in sections 306.165, 306.167, and
13 306.168.**

14 **5. All salaries, expenses, and other costs relating to the
15 assignment of Missouri state highway patrol members to the division
16 of water patrol shall be paid within the limits of appropriations from
17 general revenue, the Missouri state water patrol fund established in
18 section 306.185, or from such other funding as may be authorized by the
19 general assembly.**

58.445. 1. If any person within a coroner's or medical examiner's
2 jurisdiction dies within eight hours of, and as a result of, an accident involving
3 a motor vehicle, the coroner or medical examiner shall report the death and

4 circumstances of the accident to the Missouri state highway patrol in writing. If
5 any person within a coroner's or medical examiner's jurisdiction dies within eight
6 hours of, and as a result of, an accident involving a motorized watercraft and was
7 thought to have been the operator of such watercraft, the coroner or medical
8 examiner shall report the death and circumstances of the accident to the Missouri
9 state **highway patrol**, water patrol **division**, in writing. The report required
10 by this subsection shall be made within five days of the conclusion of the tests
11 required in subsection 2 of this section.

12 2. The coroner or medical examiner shall make, or cause to be made, such
13 tests as are necessary to determine the presence and percentage concentration of
14 alcohol, and drugs if feasible, in the blood of the deceased. The results of these
15 tests shall be included in the coroner's or medical examiner's report to the state
16 highway patrol [or the Missouri state water patrol,] as required by subsection 1
17 of this section.

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

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

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

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

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

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

17 3. This section shall not be construed as:

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

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

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

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

35 4. As used in this section, "disciplinary action" means any dismissal,
36 demotion, transfer, reassignment, suspension, reprimand, warning of possible
37 dismissal or withholding of work, whether or not the withholding of work has
38 affected or will affect the employee's compensation.

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

59 appropriate review body in such cases may be appealed by any party pursuant to
60 law.

61 6. Each state agency shall prominently post a copy of this section in
62 locations where it can reasonably be expected to come to the attention of all
63 employees of the agency.

64 7. (1) In addition to the remedies in subsection 6 of this section, a person
65 who alleges a violation of this section may bring a civil action for damages within
66 ninety days after the occurrence of the alleged violation.

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

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

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

301.716. 1. Any violation of the provisions of sections 301.700 to 301.714
2 shall be an infraction. An arrest or service of summons for violations of the
3 provisions of sections 301.700 to 301.714 and section 577.065, RSMo, or the
4 provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to
5 all-terrain vehicles may be made by the duly authorized law enforcement officer
6 of any political subdivision of the state, the highway patrol [and the state water
7 patrol].

8 2. Violations of sections 301.700 to 301.714 and section 577.065, RSMo,
9 or the provisions of this chapter, chapter 304 or 307, RSMo, as such provisions
10 relate to all-terrain vehicles or any rule or order hereunder may be referred to the
11 proper prosecuting attorney or circuit attorney who may, with or without such
12 reference, institute appropriate proceedings.

13 3. Nothing in sections 301.700 to 301.714 and section 577.065, RSMo, or
14 the provisions of this chapter, chapter 304 or 307, RSMo, as such provisions
15 relate to all-terrain vehicles limits the power of the state to punish any person
16 for any conduct which constitutes a crime by statute or at common law.

306.010. As used in this chapter the following terms mean:

2 (1) "Motorboat", any vessel propelled by machinery, whether or not such
3 machinery is a principal source of propulsion;

4 (2) "Operate", to navigate or otherwise use a motorboat or a vessel;

5 (3) "Operator", the person who operates or has charge of the navigation
6 or use of a vessel;

7 (4) "Owner", a person other than a lienholder, having the property in or
8 title to a motorboat. The term includes a person entitled to the use or possession
9 of a motorboat subject to an interest of another person, reserved or created by
10 agreement and securing payment or performance of an obligation, but the term
11 excludes a lessee under a lease not intended as security;

12 (5) "Parasailing", the towing of any person equipped with a parachute or
13 kite equipment by any watercraft operating on the waters of this state;

14 (6) "Personal watercraft", a class of vessel, which is less than sixteen feet
15 in length, propelled by machinery which is designed to be operated by a person
16 sitting, standing or kneeling on the vessel, rather than being operated by a
17 person sitting or standing inside the vessel;

18 (7) "Skiing", any activity that involves a person or persons being towed by
19 a vessel, including but not limited to waterskiing, wake boarding, wake surfing,
20 knee boarding, and tubing;

21 (8) "Vessel", every motorboat and every description of motorized
22 watercraft, and any watercraft more than twelve feet in length which is powered
23 by sail alone or by a combination of sail and machinery, used or capable of being
24 used as a means of transportation on water, but not any watercraft having as the
25 only means of propulsion a paddle or oars;

26 (9) "Watercraft", any boat or craft, including a vessel, used or capable of
27 being used as a means of transport on waters;

28 (10) **"Water patrol division of the state highway patrol" or "water**
29 **patrol division", the division responsible for enforcing the provisions**
30 **of this chapter on the waters of this state. The revisor of statutes is**
31 **instructed to replace the terms "Missouri state water patrol" or "state**
32 **water patrol" wherever those terms exist in this chapter with the term**
33 **"water patrol division";**

34 (11) "Waters of this state", any waters within the territorial limits of this
35 state and lakes constructed or maintained by the United States Army Corps of
36 Engineers except bodies of water owned by a person, corporation, association,
37 partnership, municipality or other political subdivision, public water supply

38 impoundments, and except drainage ditches constructed by a drainage district,
39 but the term does include any body of water which has been leased to or owned
40 by the state department of conservation.

306.165. Each [water] patrol officer [appointed by the Missouri state
2 water patrol and each of such other employees as may be designated by the
3 patrol, before entering upon his or her duties, shall take and subscribe an oath
4 of office to perform all duties faithfully and impartially, and shall be given a
5 certificate of appointment, a copy of which shall be filed with the secretary of
6 state, granting] **assigned to the water patrol division by the**
7 **superintendent of the highway patrol as provided in section 43.390**
8 **shall possess** all the powers of a peace officer to enforce all laws of this state,
9 upon all of the following:

10 (1) The waterways of this state bordering the lands set forth in
11 subdivisions (2), (3), (4), and (5) of this section;

12 (2) All federal land, where not prohibited by federal law or regulation, and
13 state land adjoining the waterways of this state;

14 (3) All land within three hundred feet of the areas in subdivision (2) of
15 this section;

16 (4) All land adjoining and within six hundred feet of any waters
17 impounded in areas not covered in subdivision (2) with a shoreline in excess of
18 four miles;

19 (5) All land adjoining and within six hundred feet of the rivers and
20 streams of this state;

21 (6) Any other jurisdictional area, pursuant to the provisions of section
22 306.167;

23 (7) All premises leased or owned or under control of the Missouri state
24 [water] **highway** patrol.

25 Each [water] patrol officer **assigned to the water patrol division** may board
26 any watercraft at any time, with probable cause, for the purpose of making any
27 inspection necessary to determine compliance with the provisions of this
28 chapter. Each [water] patrol officer may arrest on view and without a warrant
29 any person he or she sees violating or who such patrol officer has reasonable
30 grounds to believe has violated any law of this state, upon any water or land area
31 subject to his or her jurisdiction as provided in this section or may arrest anyone
32 violating any law in his or her presence throughout the state. Each [water]
33 patrol officer, while investigating an accident or crime that was originally

34 committed within such patrol officer's jurisdiction, as set forth in this section,
35 may arrest any person who he or she has probable cause to believe has committed
36 such crime, even if the suspect is currently out of the **division of** water patrol's
37 jurisdiction. [Water] Patrol officers, if practicable, shall notify the sheriff or the
38 police department prior to making an arrest within their respective county or
39 city. Each [water] patrol officer shall comply with the training and certification
40 provisions of chapter 590, RSMo.

306.167. The uniformed members of the [state] water patrol **division**,
2 with the exception of radio personnel, shall have full power and authority as now
3 or hereafter vested by law in peace officers when working with and at the special
4 request of the sheriff of any county, the chief park ranger of any first class county
5 not having a charter form of government and containing a portion of a city with
6 a population exceeding four hundred thousand inhabitants, the chief of police of
7 any city, or the superintendent of the state highway patrol [as directed by the
8 commissioner of the water patrol]; provided, however, that such power and
9 authority shall be exercised only upon the prior notification of the chief law
10 enforcement officer of each jurisdiction.

306.168. In the investigation of an accident or crime that was originally
2 committed within such patrol officer's jurisdiction, as set forth in section 306.165,
3 the members of the water patrol **division** may request that the prosecuting or
4 circuit attorney apply for, and members of the water patrol **division** may serve,
5 search warrants anywhere within the state of Missouri, provided the sheriff of the
6 county in which the warrant is to be served, or his designee, shall be notified
7 upon application by the applicant of the search warrant. **The sheriff or his
8 designee shall participate in serving the search warrant except for
9 offenses pertaining to boating while intoxicated and the investigation
10 of vessel accidents. Any designee of the sheriff shall be a deputy sheriff
11 or other person certified as a peace officer under chapter 590. The
12 sheriff shall always have a designee available.**

306.185. 1. There is hereby created in the state treasury the "Missouri
2 State Water Patrol Fund", which shall consist of money collected under section
3 306.030. The state treasurer shall be custodian of the fund and shall approve
4 disbursements from the fund in accordance with sections 30.170 and 30.180,
5 RSMo. Upon appropriation, money in the fund shall be used solely for the
6 expenses of the Missouri state **highway patrol**, water patrol **division**, including
7 but not limited to [personal] **personnel** expense, training expense, and

8 equipment expense **for the purpose of enforcing the laws of this chapter.**

9 2. Notwithstanding the provisions of section 33.080, RSMo, any moneys
10 remaining in the fund at the end of the biennium shall not revert to the credit of
11 the general revenue fund.

12 3. The state treasurer shall invest moneys in the fund in the same
13 manner as other funds are invested. Any interest and moneys earned on such
14 investments shall be credited to the fund.

15 4. Within available appropriations in this section, the commissioner of the
16 water patrol shall establish with the advice of the director of personnel an
17 equitable pay plan for the members of the water patrol and radio personnel
18 taking into consideration ranks and length of service.

19 5. If in the immediate previous fiscal year, the state's net general revenue
20 did not increase by two percent or more, the state treasurer shall deposit moneys,
21 except for gifts, donations, or bequests, received under this section beginning
22 January first of the current fiscal year into the state general revenue
23 fund. Otherwise, the state treasurer shall deposit such moneys in accordance
24 with the provisions of this section.

311.615. There shall be a division within the department of [public safety]
2 **revenue** known as the "Division of Alcohol and Tobacco Control", which shall
3 have as its chief executive officer the supervisor of alcohol and tobacco control
4 appointed pursuant to section 311.610. All references to the division of liquor
5 control and the supervisor of liquor control in the statutes shall mean the division
6 of alcohol and tobacco control and the supervisor of alcohol and tobacco control.

407.924. 1. The division of [liquor] **alcohol and tobacco** control within
2 the department of [public safety] **revenue** shall implement and enforce the
3 provisions of sections 407.925 to 407.934.

4 2. Beginning January 1, 2003, the division of [liquor] **alcohol and**
5 **tobacco** control shall submit an annual report to the general assembly on the
6 effectiveness of sections 407.925 to 407.934 in reducing tobacco possession by
7 minors and the enforcement activities by the division for violations of sections
8 407.925 to 407.934.

542.261. As used in sections 542.261 to 542.296 and section 542.301, the
2 term "peace officer" means a police officer, member of the highway patrol [or
3 water patrol] to the extent otherwise permitted by law to conduct searches,
4 sheriff or deputy sheriff.

544.157. 1. Any law enforcement officer certified pursuant to chapter 590,

2 RSMo, of any political subdivision of this state, any authorized agent of the
3 department of conservation, any commissioned member of the Missouri capitol
4 police[,] **and** any commissioned member of the Missouri state park rangers [and
5 any authorized agent of the Missouri state water patrol] in fresh pursuit of a
6 person who is reasonably believed by such officer to have committed a felony in
7 this state or who has committed, or attempted to commit, in the presence of such
8 officer or agent, any criminal offense or violation of a municipal or county
9 ordinance, or for whom such officer holds a warrant of arrest for a criminal
10 offense, shall have the authority to arrest and hold in custody such person
11 anywhere in this state. Fresh pursuit may only be initiated from within the
12 pursuing peace officer's, conservation agent's, capitol police officer's[,] **or** state
13 park ranger's [or water patrol officer's] jurisdiction and shall be terminated once
14 the pursuing peace officer is outside of such officer's jurisdiction and has lost
15 contact with the person being pursued. If the offense is a traffic violation, the
16 uniform traffic ticket shall be used as if the violator had been apprehended in the
17 municipality or county in which the offense occurred.

18 2. If such an arrest is made in obedience to a warrant, the disposition of
19 the prisoner shall be made as in other cases of arrest under a warrant; if the
20 violator is served with a uniform traffic ticket, the violator shall be directed to
21 appear before a court having jurisdiction to try the offense; if the arrest is
22 without a warrant, the prisoner shall be taken forthwith before a judge of a court
23 with original criminal jurisdiction in the county wherein such arrest was made
24 or before a municipal judge thereof having original jurisdiction to try such
25 offense, who may release the person as provided in section 544.455, conditioned
26 upon such person's appearance before the court having jurisdiction to try the
27 offense. The person so arrested need not be taken before a judge as herein set
28 out if given a summons by the arresting officer.

29 3. The term "fresh pursuit", as used in this section, shall include hot or
30 fresh pursuit as defined by the common law and also the pursuit of a person who
31 has committed a felony or is reasonably suspected of having committed a felony
32 in this state, or who has committed or attempted to commit in this state a
33 criminal offense or violation of municipal or county ordinance in the presence of
34 the arresting officer referred to in subsection 1 of this section or for whom such
35 officer holds a warrant of arrest for a criminal offense. It shall include also the
36 pursuit of a person suspected of having committed a supposed felony in this state,
37 though no felony has actually been committed, if there is reasonable ground for

38 so believing. "Fresh pursuit" as used herein shall imply instant pursuit.

39 4. A public agency electing to institute vehicular pursuits shall adopt a
40 policy for the safe conduct of vehicular pursuits by peace officers. Such policy
41 shall meet the following minimum standards:

42 (1) There shall be supervisory control of the pursuit;

43 (2) There shall be procedures for designating the primary pursuit vehicle
44 and for determining the total number of vehicles to be permitted to participate
45 at one time in the pursuit;

46 (3) There shall be procedures for coordinating operation with other
47 jurisdictions; and

48 (4) There shall be guidelines for determining when the interests of public
49 safety and effective law enforcement justify a vehicular pursuit and when a
50 vehicular pursuit should not be initiated or should be terminated.

577.090. Any law enforcement officer shall and any agent of the
2 conservation commission or deputy or **member of the highway patrol**, water
3 patrol [officer] **division**, may enforce the provisions of sections 577.070 and
4 577.080 and arrest violators thereof; except that conservation agents [and water
5 patrolmen] may enforce such provisions only upon the water, the banks thereof
6 or upon public land.

621.015. The "Administrative Hearing Commission" is assigned to the
2 office of administration. It shall consist of no more than [three] **five**
3 commissioners. The commissioners shall be appointed by the governor with the
4 advice and consent of the senate. The term of each commissioner shall be for six
5 years and until his successor is appointed, qualified and sworn. The
6 commissioners shall be attorneys at law admitted to practice before the supreme
7 court of Missouri, but shall not practice law during their term of office. Each
8 commissioner shall receive annual compensation of fifty-one thousand dollars plus
9 any salary adjustment provided pursuant to section 105.005, RSMo. Each
10 commissioner shall also be entitled to actual and necessary expenses in the
11 performance of his duties. The office of the administrative hearing commission
12 shall be located in the City of Jefferson and it may employ necessary clerical
13 assistance, compensation and expenses of the commissioners to be paid from
14 appropriations made for that purpose.

621.075. 1. Except as otherwise provided by law, any employee
2 **with merit status who has been dismissed or involuntarily demoted for**
3 **cause or suspended for more than five working days shall have the**

4 right to appeal to the administrative hearing commission. Any such
5 person shall be entitled to a hearing before the administrative hearing
6 commission by the filing of an appeal setting forth in substance the
7 employee's reasons for claiming that the dismissal, suspension, or
8 demotion was for political, religious, or racial reasons, or not for the
9 good of the service with the administrative hearing commission within
10 thirty days after the effective date of the action. The decision of the
11 appointing authority shall contain a notice of the right of appeal in
12 substantially the following language:

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

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

36 (1) Order the reinstatement of the employee to the employee's
37 former position;

38 (2) Sustain the dismissal of such employee;

39 (3) Except as provided in subdivisions (1) and (2) of this
40 subsection, the administrative hearing commission may sustain the

41 **dismissal, but may order the director of personnel to recognize**
42 **reemployment rights for the dismissed employee pursuant to section**
43 **36.240, in an appropriate class or classes, or may take steps to effect the**
44 **transfer of such employee to an appropriate position in the same or**
45 **another division of service.**

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

650.005. 1. There is hereby created a "Department of Public Safety" in
2 charge of a director appointed by the governor with the advice and consent of the
3 senate. The department's role will be to provide overall coordination in the
4 state's public safety and law enforcement program, to provide channels of
5 coordination with local and federal agencies in regard to public safety, law
6 enforcement and with all correctional and judicial agencies in regard to matters
7 pertaining to its responsibilities as they may interrelate with the other agencies
8 or offices of state, local or federal governments.

9 2. All the powers, duties and functions of the state highway patrol,
10 chapter 43, RSMo, and others, are transferred by type II transfer to the
11 department of public safety. The governor by and with the advice and consent of
12 the senate shall appoint the superintendent of the patrol. With the exception of
13 sections 43.100 to 43.120, RSMo, relating to financial procedures, the director of
14 public safety shall succeed the state highways and transportation commission in
15 approving actions of the superintendent and related matters as provided in
16 chapter 43, RSMo. Uniformed members of the patrol shall be selected in the
17 manner provided by law and shall receive the compensation provided by
18 law. Nothing in the Reorganization Act of 1974, however, shall be interpreted to
19 affect the funding of appropriations or the operation of chapter 104, RSMo,
20 relating to retirement system coverage or section 226.160, RSMo, relating to
21 workers' compensation for members of the patrol.

22 3. [All the powers, duties and functions of the supervisor of liquor control,

23 chapter 311, RSMo, and others, are transferred by type II transfer to the
24 department of public safety. The supervisor shall be nominated by the
25 department director and appointed by the governor with the advice and consent
26 of the senate. The supervisor shall appoint such agents, assistants, deputies and
27 inspectors as limited by appropriations. All employees shall have the
28 qualifications provided by law and may be removed by the supervisor or director
29 of the department as provided in section 311.670, RSMo.

30 4. The director of public safety, superintendent of the highway patrol and
31 transportation division of the department of economic development are to
32 examine the motor carrier inspection laws and practices in Missouri to determine
33 how best to enforce the laws with a minimum of duplication, harassment of
34 carriers and to improve the effectiveness of supervision of weight and safety
35 requirements and to report to the governor and general assembly by January 1,
36 1975, on their findings and on any actions taken.

37 5. The Missouri division of highway safety is transferred by type I
38 transfer to the department of public safety. The division shall be in charge of a
39 director who shall be appointed by the director of the department.

40 6.] All the powers, duties and functions of the safety and fire prevention
41 bureau of the department of public health and welfare are transferred by type I
42 transfer to the director of public safety.

43 [7.] 4. All the powers, duties and functions of the state fire marshal,
44 chapter 320, RSMo, and others, are transferred to the department of public safety
45 by a type I transfer.

46 [8.] 5. All the powers, duties and functions of the law enforcement
47 assistance council administering federal grants, planning and the like relating to
48 Public Laws 90-351, 90-445 and related acts of Congress are transferred by type
49 I transfer to the director of public safety. The director of public safety shall
50 appoint such advisory bodies as are required by federal laws or regulations. The
51 council is abolished.

52 [9.] 6. The director of public safety shall promulgate motor vehicle
53 regulations and be ex officio a member of the safety compact commission in place
54 of the director of revenue and all powers, duties and functions relating to chapter
55 307, RSMo, are transferred by type I transfer to the director of public safety.

56 [10.] 7. The office of adjutant general and the state militia are assigned
57 to the department of public safety; provided, however, nothing herein shall be
58 construed to interfere with the powers and duties of the governor as provided in

59 article IV, section 6 of the Constitution of the state of Missouri or chapter 41,
60 RSMo.

61 [11.] 8. All the powers, duties and functions of the Missouri boat
62 commission, chapter 306, RSMo, and others, are transferred by type I transfer to
63 the "Missouri State Water Patrol", which is hereby created, in the department of
64 public safety. The Missouri boat commission and the office of secretary to the
65 commission are abolished. [The Missouri state water patrol shall be headed by
66 a boat commissioner who shall be appointed by the governor, with the advice and
67 consent of the senate.] All deputy boat commissioners and all other employees
68 of the commission who were employed on February 1, 1974, shall be transferred
69 to the water patrol without further qualification. **Effective January 1, 2011,**
70 **all the powers, duties, and functions of the Missouri state water patrol**
71 **are transferred to the division of water patrol within the Missouri state**
72 **highway patrol as set out in section 43.390.**

73 [12.] 9. The [division of veterans affairs] **Missouri veterans's**
74 **commission**, chapter 42, RSMo, is assigned to the [office of adjutant
75 general. The adjutant general, with the advice of the veterans' board, shall
76 appoint the director of the division of veterans affairs who shall serve at the
77 pleasure of the adjutant general] **department of public safety.**

78 [13.] 10. Any rule or portion of a rule, as that term is defined in section
79 536.010, RSMo, that is created under the authority delegated in this section shall
80 become effective only if it complies with and is subject to all of the provisions of
81 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
82 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
83 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
84 date, or to disapprove and annul a rule are subsequently held unconstitutional,
85 then the grant of rulemaking authority and any rule proposed or adopted after
86 August 28, 2009, shall be invalid and void.

[306.161. The Missouri state water patrol is authorized to
2 employ, within the limits of appropriations and notwithstanding
3 any other provision of law to the contrary, such personnel as may
4 be necessary to properly perform the duties of the water patrol, and
5 the water patrol shall prescribe the duties and responsibilities of
6 such personnel.]

[306.163. 1. The governor, by and with the advice and
2 consent of the senate, shall appoint a commissioner of the Missouri

3 state water patrol to serve at the pleasure of the governor. The
4 commissioner shall take and subscribe an oath of office to perform
5 the commissioner's duties faithfully and impartially. The
6 commissioner appointed by the governor shall have at least ten
7 years of experience in law enforcement similar to the duties
8 exercised by uniformed officers of the state water patrol or at least
9 five years of experience as a uniformed officer of the state water
10 patrol.

11 2. The commissioner shall prescribe rules for instruction
12 and discipline and make administrative rules and regulations and
13 fix the hours of duty for the members of the patrol. The
14 commissioner shall have charge of the office of the patrol, shall be
15 custodian of the records of the patrol, and shall direct the
16 day-to-day activities of the officers, patrolmen and office personnel.

17 3. The commissioner shall be given a certificate of
18 appointment, a copy of which shall be filed with the secretary of
19 state, granting him or her all the powers of a peace officer to
20 enforce all the laws of this state within the jurisdiction of the water
21 patrol as listed in section 306.165, provided that he has completed
22 a law enforcement training course which meets the standards
23 established in chapter 590, RSMo.

24 4. In the absence, or upon the disability, of the
25 commissioner, or at the time the commissioner designates, the
26 lieutenant colonel shall assume the duties of the commissioner. In
27 case of the disability of the commissioner and the lieutenant
28 colonel, the governor may designate a major as acting commissioner
29 and when so designated, the acting commissioner shall have all the
30 powers and duties of the commissioner.]

[306.227. Patrolmen and radio personnel of the water patrol
2 shall not be less than twenty-one years of age. No person shall be
3 appointed as commissioner or as a member of the patrol or as a
4 member of the radio personnel who:

5 (1) Has been convicted of a felony or any crime involving
6 moral turpitude, or against whom any indictment or information
7 may then be pending charging the person with having committed
8 a crime;

- 9 (2) Is not of good character;
- 10 (3) Is not a citizen of the United States;
- 11 (4) At the time of appointment is not a citizen of the state
12 of Missouri;
- 13 (5) Has not completed a high school program of education
14 under chapter 167, RSMo, or has not obtained a General
15 Educational Development (GED) certificate, and who has not
16 obtained advanced education and experience as approved by the
17 commissioner; or
- 18 (6) Does not possess ordinary physical strength, and who is
19 not able to pass the physical and mental examination that the
20 commissioner prescribes.]

[306.228. 1. The commissioner may appoint from within
2 the membership not more than one assistant commissioner, two
3 majors, nine captains, nine lieutenants, and one director of radio,
4 each of whom shall have the same qualifications as the
5 commissioner, and such additional force of sergeants, corporals and
6 patrolmen and such numbers of radio personnel as the
7 commissioner deems necessary.

8 2. In case of a national emergency the commissioner may
9 name additional patrolmen and radio personnel in a number
10 sufficient to replace, temporarily, patrolmen and radio personnel
11 called into military services.

12 3. Applicants shall not be discriminated against because of
13 race, creed, color, national origin, religion or sex.]

[306.229. 1. The commissioner is authorized and
2 empowered to prescribe policies providing increases in the salaries
3 of patrolmen and radio personnel of the water patrol, subject to
4 appropriations. Each year, prior to January first, the commissioner
5 shall submit a salary schedule report to the governor, speaker of
6 the house of representatives, and the president pro tem of the
7 senate. The salary schedule report prepared by the commissioner
8 shall include, in addition to other matters deemed pertinent to the
9 commissioner, a comparison of the salaries of police officers of three
10 police departments that employ similar numbers of patrol officers
11 in the state. Such report shall also include a full description and

12 comparison of each department position used to determine parity
13 for all patrol positions of sergeant and above. The governor may
14 make additional recommendations to the report and forward them
15 to the speaker of the house of representatives and president pro
16 tem of the senate. The speaker of the house of representatives and
17 the president pro tem of the senate may assign the salary schedule
18 report to the appropriate standing committees to review the salary
19 comparisons to ensure that parity, as adjusted for equivalent duties
20 and functions, in the salary of patrolmen and radio personnel of the
21 water patrol and officers of the three police departments that
22 employ similar numbers of patrol officers in the state is
23 maintained. The commissioner of the water patrol shall testify
24 before the appropriate committee on the salary schedule report if
25 called up by such committee.

26 2. The service of a member of the patrol, who has served in
27 the armed forces of the United States and who has subsequently
28 been reinstated as a member of the patrol within ninety days after
29 receiving a discharge other than dishonorable from the armed
30 forces of the United States, shall be considered service with the
31 patrol as a member of the patrol rendered since last becoming a
32 member prior to entrance into the armed forces of the United
33 States; except that no member shall be entitled to any credit,
34 privilege or benefit provided by this chapter if such reenlistment,
35 waiver of discharge, acceptance of commission or any other action
36 with the armed forces beyond the period of service for which such
37 member was originally commissioned, enlisted, inducted or called.]

2 [306.230. 1. The commissioner shall prescribe rules for
3 instruction and discipline and make all administrative rules and
4 regulations and fix the hours of duty for the members of the
5 patrol. Any rule or portion of a rule, as that term is defined in
6 section 536.010, RSMo, that is created under the authority
7 delegated in this section shall become effective only if it complies
8 with and is subject to all of the provisions of chapter 536, RSMo,
9 and, if applicable, section 536.028, RSMo. This section and chapter
10 536, RSMo, are nonseverable and if any of the powers vested with
the general assembly under chapter 536, RSMo, to review, to delay

11 the effective date, or to disapprove and annul a rule are
12 subsequently held unconstitutional, then the grant of rulemaking
13 authority and any rule proposed or adopted after August 28, 2007,
14 shall be invalid and void. The commissioner shall divide the state
15 into districts and assign members of the patrol to such districts in
16 a manner deemed proper to carry out the purposes of this
17 chapter. The commissioner may call members of the patrol from
18 one district to another.

19 2. The commissioner may, by general order, establish for
20 the circumstances under which members of the patrol are
21 promoted. The commissioner shall classify and, by promotion,
22 increase the rank of lieutenant colonels, majors, captains,
23 lieutenants, sergeants, corporals, patrolmen, and radio personnel
24 from the next lower rank after not less than one year of service
25 satisfactorily performed therein. If the commissioner finds the
26 candidate pool to fill a position through promotion is not sufficient
27 from which to select, the commissioner may promote an individual
28 from the next lower rank.]

[306.232. 1. After a probation period of one year, members
2 of the patrol shall be subject to removal, reduction in rank, or
3 suspension of more than three days only for cause after a petition
4 with a formal charge has been filed in writing before or by the
5 commissioner and upon a finding and vote by a majority of a board
6 of six patrol members after a hearing. The members of the board
7 shall be randomly selected from districts or divisions other than
8 that of the accused. The board shall be composed of six unbiased
9 members including one nonvoting captain, one lieutenant, and four
10 members of the same rank as the accused member. The randomly
11 selected captain shall serve as presiding officer at the
12 hearing. Within thirty days after the petition is filed, unless the
13 accused consents to an extension of the time, the board shall
14 conduct a hearing and report to the commissioner the finding and
15 vote of the majority of the board, whether the charges are true, and
16 what discipline, if any, should be imposed. All lawful rules,
17 regulations, and orders of the commissioner shall be obeyed by the
18 members of the patrol, who shall be subject to dismissal or one or

19 more of the following as adjudged by the commissioner:

20 (1) Suspension without pay for not more than thirty days;

21 (2) Reduction in rank; or

22 (3) Disciplinary transfer at the member's expense. Nothing

23 in this section shall be construed to prevent nondisciplinary

24 transfers of members if the commissioner determines that such

25 transfers are for the good of the patrol. No hearings shall be

26 required in the case of reprimands or suspensions of three days or

27 less which may be imposed at the discretion of the commissioner.

28 2. If a complaint is filed against a member, the member

29 shall be provided a copy of the complaint promptly after the

30 complaint is filed by or received by the patrol. Unless the member

31 consents in writing to an earlier time, the member shall not be

32 questioned by the patrol about the complaint or ordered to respond

33 in writing to the complaint until forty-eight hours after the member

34 has received a copy of the complaint. The member shall have a

35 reasonable opportunity to have counsel present during any

36 questioning related to the complaint. Prior to the commissioner or

37 the patrol making an initial recommendation of discipline, the

38 member shall be entitled to a copy of any investigation reports and

39 any other written or recorded information or other evidence

40 reviewed by the patrol which relates to the complaint; and the

41 member will be afforded an opportunity to present a written

42 response thereto.

43 3. Notwithstanding the provisions of this subsection or

44 subsection 2 of this section to the contrary, the commissioner may

45 postpone notifying a member that a complaint has been filed

46 against him or her and may withhold the complaint and part or all

47 of the investigation report and other evidence if the commissioner

48 determines that such disclosures shall seriously interfere with the

49 investigation regarding such complaint or any other investigation

50 being conducted by the patrol or may likely jeopardize the health

51 or safety of any person. Nothing in this subsection shall be

52 construed to limit the rights of parties to discovery in civil or

53 criminal litigation.]

Section B. The repeal of sections 306.161, 306.163, 306.227, 306.228,

2 306.229, 306.230, and 306.232, the repeal and reenactment of sections 32.028,
3 36.031, 43.040, 43.050, 58.445, 301.716, 306.010, 306.165, 306.167, 306.168,
4 306.185, 311.615, 407.924, 542.261, 544.157, 577.090, and 650.005, and the
5 enactment of sections 43.390 and 104.809 shall become effective on January 1,
6 2011.

Section C. Because of the need to promote the health care of state
2 employees and of citizens of this state, section 37.600 of section A of this act is
3 deemed necessary for the immediate preservation of the public health, welfare,
4 peace and safety, and is hereby declared to be an emergency act within the
5 meaning of the constitution, and section A of this act shall be in full force and
6 effect upon its passage and approval.

✓

Bill

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