

SECOND REGULAR SESSION

HOUSE BILL NO. 2029

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MUSCHANY (Sponsor), PRATT, JONES (117), NIEVES, JONES (89), FLOOK, ONDER, FISHER, QUINN (7), GRISAMORE, PORTWOOD, FUNDERBURK, WILSON (119), MUNZLINGER, NANCE, BIVINS, SCHAD, SANDER AND COOPER (155) (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

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AN ACT

To repeal sections 23.080, 23.140, 23.150, 23.153, 23.160, 23.170, 23.180, 23.190, 23.200, and 33.810, RSMo, and to enact in lieu thereof ten new sections relating to the general assembly, with a penalty provision and an effective date for a certain section.

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

Section A. Sections 23.080, 23.140, 23.150, 23.153, 23.160, 23.170, 23.180, 23.190,
2 23.200, and 33.810, RSMo, are repealed and ten new sections enacted in lieu thereof, to be
3 known as sections 23.080, 23.135, 23.140, 23.150, 23.155, 23.160, 23.170, 23.180, 23.190, and
4 33.810, to read as follows:

23.080. 1. The committee may regularly employ and fix the compensation of a director
2 of research who is competent to assume administration of the necessary activities of the
3 committee under the direction of the committee. The committee may also employ other
4 attorneys, research assistants, clerks and other persons as it deems necessary within the limits of
5 the appropriation made therefor to carry out the provisions of this chapter or to provide
6 assistance for the members and committees of the general assembly. Except for those employees
7 assigned to the **legislative budget office or the** oversight division, all employees of the
8 committee shall be under the supervision of the director of research, and he **or she** shall, as
9 directed by the committee, assign and supervise all work projects of those employees and keep
10 all necessary personnel records for those employees and others of the committee if so directed.

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

11 **All employees of the legislative budget office shall be under the supervision of the director**
12 **of the legislative budget office, and he or she shall, as directed by the subcommittee, assign**
13 **and supervise all work projects of the employees of that office.** All employees of the
14 oversight division shall be under the supervision of the director of the oversight division, and he
15 **or she** shall, as directed by the subcommittee, assign and supervise all work projects of the
16 employees of that division.

17 2. The committee may provide necessary legal reports and other publications to be kept
18 in the library of the committee and pay for same out of any appropriations made to the
19 committee. The secretary of state and the revisor of statutes shall furnish the librarian, without
20 charge, the number of Missouri statutes and session laws as is desired by the committee to enable
21 it to exchange the statutes and session laws for those of other states.

23.135. 1. The committee on legislative research shall organize a "Legislative
2 **Budget Office" to prepare fiscal notes as required by section 23.140 and to prepare and**
3 **present budgetary projections and budget alternatives to members of the general assembly.**
4 **The committee may form a subcommittee of not less than six members to provide direct**
5 **supervision of the personnel and practices of the legislative budget office. The**
6 **subcommittee shall consist of one-half of the members appointed by the chair from the**
7 **house which he or she represents and one-half of the members appointed by the vice chair**
8 **of the house which he or she represents, and shall include the chair of the senate**
9 **appropriations committee and the chair of the house budget committee.**

10 2. (1) **The committee shall appoint and fix the compensation of the director of the**
11 **legislative budget office, who shall be qualified by training and experience to handle**
12 **economic and budgetary issues. The director of the legislative budget office may employ**
13 **personnel necessary to carry out the duties of such office within the limits of any**
14 **appropriation made for such purpose. Persons employed to work in the legislative budget**
15 **office shall be appointed without regard to political affiliation and shall be professional**
16 **persons possessing a wide knowledge and demonstrated expertise in economics and public**
17 **policy and administration. The director of the legislative budget office may also contract**
18 **with public and private entities, within the limits of appropriation, for analysis and study**
19 **of current economic and budgetary issues.**

20 (2) **The term of office of the director shall be four years beginning on January first**
21 **of the year following the election of the governor. An individual serving as director at the**
22 **expiration of a term may continue to serve until a successor is appointed. The individual**
23 **-serving as director on August 28, 2008, shall serve as director for the first term following**
24 **such date.**

25 (3) **The director may be removed by either house by resolution.**

26 **3. Beginning in calendar year 2009, and at least once every year thereafter, the**
27 **legislative budget office shall provide to members of the general assembly a cash basis**
28 **financial projection. The projection shall be developed by staff of the legislative budget**
29 **office and may be similar in format to the general revenue summary of the executive**
30 **branch. The director of the legislative budget office is hereby authorized to prepare and**
31 **provide other reports containing budgetary projections to members of the general**
32 **assembly as he or she deems appropriate. Any chair or minority member ranking by**
33 **seniority of any standing committee of either house, joint committee, or interim committee**
34 **may request budgetary projections, including estimating the fiscal effects of the governor's**
35 **budget proposals.**

 23.140. 1. **In accordance with subsection 3 of this section,** legislation, with the
2 exception of appropriation bills, introduced into either house of the general assembly shall[,
3 before being acted upon,] be submitted to the [oversight division] **legislative budget office** of
4 the committee on legislative research for the preparation of a fiscal note. The staff of the
5 [oversight division] **legislative budget office** shall prepare a fiscal note, examining the items
6 contained in subsection 2 [and such additional items as may be provided either by joint rule of
7 the house and senate or by resolution adopted by the committee or the oversight subcommittee].

8 2. The fiscal note shall [state] **include, but not be limited to, the following:**

9 (1) The [cost] **fiscal impact** of the proposed legislation [to] **on the state for a minimum**
10 **of the next two fiscal years;**

11 (2) Whether or not the proposed legislation will establish a program or agency that will
12 duplicate an existing program or agency;

13 (3) Whether or not [there] **the proposed legislation is required by** a federal mandate
14 for the program or agency;

15 (4) Whether or not the proposed [program or agency] **legislation** will have significant
16 direct fiscal impact upon any political subdivision of the state;

17 (5) Whether or not any new physical facilities will be required; and

18 (6) Whether or not the proposed legislation will have an economic impact on small
19 businesses. For the purpose of this subdivision "small business" means a corporation,
20 partnership, sole proprietorship or other business entity, including its affiliates, that:

21 (a) Is independently owned and operated; and

22 (b) Employs fifty or fewer full-time employees.

23 3. The fiscal note for a bill shall accompany the bill throughout its course of passage[.
24 No member of the general assembly, lobbyist or persons other than oversight division staff
25 members shall participate in the preparation of any fiscal note unless the communication is in
26 writing, with a duplicate to be filed with the fiscal note or unless requested for information by

27 the fiscal analyst preparing the note. Violations of this provision shall be reported to the
28 chairman of the legislative research committee and subject the fiscal note and proposed bill to
29 subcommittee review. Once a fiscal note has been signed and approved by the director of the
30 oversight division, the note shall not be changed or revised without prior approval of the
31 chairman of the legislative research committee, except to reflect changes made in the bill it
32 accompanies, or to correct patent typographical, clerical or drafting errors that do not involve
33 changes of substance, nor shall substitution be made therefor] **upon being reported by a**
34 **committee with jurisdiction over matters contained in the bill; except that, the president**
35 **pro tem of the senate, the speaker of the house of representatives, the minority leader of**
36 **the house, the minority leader the senate, or the chair or ranking minority member of any**
37 **committee the bill is assigned to may request a fiscal note on such bill.** Appeals to revise,
38 change or to substitute a fiscal note shall be made in writing by a member of the general
39 assembly to the chairman of the legislative research committee and a hearing before the
40 committee or subcommittee shall be granted as soon as possible. Any member of the general
41 assembly, upon presentation of new or additional material, may, within three legislative days
42 after the hearing on the request to revise, change or substitute a fiscal note, request one rehearing
43 before the full committee to further consider the requested change. The subcommittee, if
44 satisfied that new or additional material has been presented, may recommend such rehearing to
45 the full committee, and the rehearing shall be held as soon as possible thereafter.

46 [4. The director of the division, hereinafter provided for, or the director's designees, shall
47 seek information and advice from the affected department, division or agency of state
48 government and shall call upon the research staffs of the house of representatives and of the
49 senate, and upon the staffs of the house and senate appropriations committees for assistance in
50 carrying out fiscal notes and auditing functions and duties, during the interim, and each staff
51 shall supply such information or advice as it may possess in response to the inquiry. The state
52 auditor shall, upon request, cooperate and provide assistance in the conduct of audits and the
53 preparation of reports made in connection therewith.]

23.150. 1. The committee on legislative research shall organize an oversight division
2 to [prepare fiscal notes and to] conduct [management audits and] program [audits] **evaluations**
3 of state agencies. The committee may form a subcommittee of not less than six members to
4 provide direct supervision of the personnel and practices of the division. The subcommittee shall
5 consist of one-half of the members appointed by the [chairman] **chair** from the house which he
6 **or she** represents and one-half of the members appointed by the vice [chairman] **chair** from the
7 house which he **or she** represents.

8 2. Within the limits of the appropriations made for this division, the committee shall
9 employ a director of the oversight division and other personnel as it deems necessary. The

10 director shall be qualified by training and experience to conduct such [audits] **evaluations**, and
11 he **or she** shall be directly responsible for those activities. The director of the oversight division,
12 with the consent of the joint committee, may employ personnel necessary to carry out the duties
13 prescribed in this chapter. Persons employed to work in the oversight division shall be
14 professional persons possessing a wide knowledge and demonstrated expertise in governmental
15 programming and financial planning, in conducting program review evaluations and analytic
16 studies, and of federal, state, and local government budgetary processes, laws and regulations of
17 the state of Missouri. [Office space, furniture and equipment formerly assigned to the committee
18 on state fiscal affairs, and appropriations made therefor, shall be transferred to the committee on
19 legislative research.]

**23.155. 1. Every employee of the oversight division shall, before entering upon his
2 or her duties, take and file in the offices of the secretary of the senate and the chief clerk
3 of the house of representatives an oath to support the constitution of the state, to faithfully
4 demean himself or herself in office, to not disclose to any unauthorized person any
5 information furnished by any state department, state agency, political subdivision, or
6 instrumentality of the state, and that he or she will not accept as presents or emoluments
7 any pay, directly or indirectly, for the discharge of any act in the line of his or her duty
8 other than the remuneration fixed and accorded to the employee by law.**

9 **2. For any violation of his or her oath of office or of any duty imposed upon him
10 or her by this section, any employee shall be guilty of a felony, and upon conviction shall
11 be punished by imprisonment in the penitentiary for a term not exceeding five years, or by
12 a fine not less than one hundred dollars or by imprisonment in the county jail for not less
13 than one nor more than twelve months, or by both such fine and imprisonment.**

23.160. 1. [As used in this chapter, the term "management audit" means a postaudit
2 which determines, with regard to the purpose, functions, and duties of an audited agency:

3 (1) Whether the agency is managing and utilizing its resources in an economical and
4 efficient manner; and

5 (2) Which identifies causes of inefficiencies or uneconomical practices including
6 inadequacies in the use and management of information systems, internal and administrative
7 procedures, organizational structure, use of resources, allocation of personnel, and purchasing
8 policies.

9 2.] As used in this chapter, the term "program [audit"] **evaluation**" means a [postaudit]
10 **study** which determines and evaluates program performance according to program objectives,
11 responsibilities, and duties as set forth by statute or regulation. Program [audits] **evaluations**,
12 in accordance with generally accepted program evaluation standards, shall determine:

13 (1) Whether the program is being performed and administered as authorized or required
14 by law, and whether this action conforms with statutory intent;

15 (2) Whether the objectives and intended benefits are being achieved, and whether
16 [efficiently and effectively] **the absence of such achievements suggest the need for corrective**
17 **or additional legislation;**

18 (3) Benefits derived from any program in relation to the expenditures made therefor; and

19 (4) Whether the program duplicates, overlaps, or conflicts with any other state program.

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21 [A program audit may include determinations within the scope of a management audit to the
22 extent necessary or appropriate to the conduct of a particular program audit.]

23 [3.] **2.** As used in this chapter, the term "resources" includes appropriated funds, federal
24 funds, grants, and personnel, and also includes equipment and space, whether assigned, owned
25 or leased.

26 [4.] **3.** As used in this chapter, the term "agency" includes each department and office
27 within the executive branch of government and each identifiable unit thereof, including
28 institutions of higher learning, and each identifiable unit of the legislative and judicial branches
29 of government.

23.170. 1. The oversight division of the committee on legislative research shall,
2 pursuant to a duly adopted concurrent resolution of the general assembly, or pursuant to a
3 resolution adopted by the committee on legislative research, conduct [management audits and]
4 program [audits] **evaluations** of agencies as directed by any such resolution.

5 2. The staff of any agency subject to a [management or] program [audit] **evaluation** shall
6 fully cooperate with the staff of the oversight division and shall provide all necessary information
7 and assistance for such an [audit] **evaluation**. All records of an agency, unless otherwise
8 expressly declared by law to be confidential, may be inspected by the oversight division staff
9 while conducting the [audit] **evaluation**, and the agency subject to the [audit] **evaluation** shall
10 afford the oversight division staff with ample opportunity to observe agency operations.

11 3. All [audits] **evaluations** shall be completed within one year unless an extension is
12 authorized by the committee, but progress reports shall be made to the committee at least
13 monthly. [The subcommittee supervising the oversight division shall meet monthly to review
14 progress reports, hear requests for changes in fiscal notes, and provide supervision for the
15 oversight division staff.]

16 4. Any member of the general assembly and any committee of either house of the general
17 assembly may submit requests for [audits] **program evaluations** to the committee on legislative
18 research, and any agency may request an [audit] **evaluation** of its operations.

19 **5. The director of the division, or the director's designees, shall seek information**
20 **and advice from the affected department, division or agency of state government and shall**
21 **call upon the research staffs of the house of representatives and of the senate, and upon the**
22 **staffs of the house and senate appropriations committees for assistance in carrying out**
23 **program evaluations, during the interim, and each staff shall supply such information or**
24 **advice as it may possess in response to the inquiry. The state auditor shall, upon request,**
25 **cooperate and provide assistance in the conduct of evaluations and the preparation of**
26 **reports made in connection therewith.**

23.180. The committee may:

2 (1) Subpoena and examine witnesses by subpoena issued under the hand of the speaker
3 of the house or the president pro tem of the senate and may require the appearance of any person
4 and the production of any paper or document in the same manner;

5 (2) Cause witnesses appearing before the committee or [the] **its** staff [of the division] to
6 give testimony under oath;

7 (3) Require that testimony given or a record of the proceedings of any hearing be
8 recorded by an official court reporter or other competent person, under oath, in writing or by
9 electronic, magnetic, or mechanical sound or video recording devices. Any such transcript or
10 record, when certified by the reporter or recorder, shall be prima facie a correct statement of the
11 testimony or proceedings.

23.190. 1. In making [audits] **program evaluations** the division shall make
2 recommendations and suggestions, in writing, to the personnel of the agency being [audited]
3 **evaluated**. Such personnel shall be given an opportunity to respond, in writing, to those
4 recommendations and suggestions. Thereafter, as soon as practicable after completion of the
5 [audit] **evaluation**, the committee shall issue a public report of the [audit] **evaluation**. The
6 report shall contain recommendations for changes in practices and policies as well as
7 recommendations for changes in statutes and regulations, and shall contain the response of the
8 agency involved. Each report shall be a public record and shall be signed by the committee
9 [chairman] **chair**. Each report shall be presented to the governor and the agency involved.
10 Copies may be made available to members of the general assembly and to the general public.
11 The committee may charge a fee to recover publication costs for copies made available to the
12 general public.

13 2. One year after completion of each [audit] **evaluation**, the oversight division shall
14 review the operations of the agency [audited] **evaluated** to determine whether or not there has
15 been substantial compliance with the recommendations contained in the report, and if not, a
16 further review shall be conducted at the end of another year. In each instance a further report
17 shall be made and distributed in the same manner as an initial report is made and distributed.

33.810. When any department or agency is selected for a performance-based review pursuant to the provisions of sections 33.800 to 33.810, an analysis team shall be formed to consist of a budget analyst of the senate appropriations committee selected by the chairman of the senate appropriations committee, a budget analyst of the house budget committee selected by the chairman of the house budget committee, a budget analyst who is employed by the office of administration designated by the commissioner of administration, and an employee of the department or agency subject to the performance-based review selected by the chief administrative officer of that department or agency. Upon request of the chairmen of the legislative committees, the **legislative budget office and the** oversight division of the joint committee on legislative research shall assist the analysis team and provide such services as may be required. Members of the team shall receive no additional compensation for their services, but may be reimbursed for their actual and necessary expenses connected with the performance of their duties out of the joint legislative contingent fund. The team shall perform such functions, analysis and other duties as are specified in the performance-based review procedures established pursuant to the provisions of section 33.800. The team shall begin the performance-based review no sooner than the final approval of the appropriations bills by the governor and complete the review no later than December thirty-first of the same year.

[23.153. 1. As part of the preparation of any fiscal note for any proposed piece of legislation, the staff member of the oversight division assigned to prepare that note shall maintain a log, which shall be a public record as defined in chapter 610, RSMo. That log shall contain a record of any contact initiated by any other person who either inquires regarding the content of the fiscal note or who attempts to influence the preparation of the fiscal note. The log shall contain, at a minimum, the name and position of the person initiating the contact, the time and date of the contact, the number of the fiscal note and the number of the proposed piece of legislation, and a narrative summary of the comments made by the person who initiated the contact.

2. Violation of the provisions of this section is a class A misdemeanor.]

[23.200. The staff of the committee on legislative research shall prepare a transfer-revision bill to be submitted to the ninetieth general assembly to revise the statutes so as to reflect the changes made by or pursuant to this act; except that, the committee on legislative research shall use fully the provisions of section 3.060, RSMo, where such provisions will suffice. At such time as all statutory revision changes required pursuant to this act have gone into effect the revisor of statutes may prepare legislation to repeal this section.]

Section B. The repeal and reenactment of section 23.140 of section A of this act shall become effective on July 1, 2009.

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