

SECOND REGULAR SESSION

# HOUSE JOINT RESOLUTION NO. 87

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ICET (Sponsor), SCHARNHORST, COX, JONES (89), KOENIG, WILSON (119), DIECKHAUS, SATER, DAVIS, SCHAD, FAITH, STEVENSON, NIEVES, SCHAAF, RUESTMAN, ERVIN AND EMERY (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

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### JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing section 27(a) of article IV of the Constitution of Missouri, and adopting four new sections in lieu thereof relating to the commonsense obligation to provide accountability and spending stabilization act.

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*Be it resolved by the House of Representatives, the Senate concurring therein:*

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2010, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article IV of the Constitution of the state of Missouri:

Section A. Section 27(a), article IV, Constitution of Missouri, is repealed and four new sections adopted in lieu thereof, to be known as sections 23(a), 27(a), 27(c), and 27(d), to read as follows:

**Section 23(a). 1. As used in this section and sections 27(a), 27(c), and 27(d) of this article:**

(1) "Appropriations growth limit", means a percentage figure that is the greater of zero or the sum of the annual rate of inflation and the annual percentage change in the population of Missouri;

(2) "Emergency", means an event or series of events or a state of affairs that requires the immediate appropriation of moneys for the health, safety, and general welfare of the people;

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.

9           (3) "Inflation", means the rate of inflation as measured by the Consumer Price  
10 Index for All Urban Consumers for the United States, semi-annual average of the first six  
11 months of the current calendar year;

12           (4) "Net general revenue collections", means all revenue deposited into the general  
13 revenue fund less refunds and revenues originally deposited into the general revenue fund  
14 but designated by law for a specific distribution or transfer to another state fund as  
15 reported by the office of administration;

16           (5) "Population of Missouri", means the number of persons residing in the state of  
17 Missouri as determined by the United States Census Bureau in the last decennial census  
18 including the most recent calendar year update; and

19           (6) "Total state general revenue appropriations", means the total of appropriations  
20 from net general revenue collections for fiscal year 2008, including supplemental  
21 appropriations from any regular, special, or extraordinary session from the previous fiscal  
22 year from net general revenue collections, passed by the general assembly and approved  
23 by the governor as reported by the office of administration, except reappropriations,  
24 appropriations to pay principal and interest on general obligation bonded indebtedness,  
25 and appropriations from general revenue for final court judgments and costs in cases to  
26 the extent that the state was not the prevailing party.

27           2. Total state general revenue appropriations for any fiscal year shall not exceed  
28 total state general revenue appropriations for the immediately preceding fiscal year by  
29 more than the appropriations growth limit determined by subsection 1 of this section,  
30 except that new or increased tax revenues or fees that meet the exceptions in subsection 1,  
31 section 18(e), article X of this constitution or receive voter approval shall be exempted from  
32 the calculation of the appropriations growth limit for the year in which they are passed.

33           3. For any fiscal year in which net general revenue collections exceed total state  
34 general revenue appropriations allowed under subsection 2 of this section by more than  
35 one percent of total state general revenue appropriations allowed, the commissioner of  
36 administration shall, by August first following the end of the fiscal year, transfer the excess  
37 funds over one percent to the taxpayer protection stabilization fund established by section  
38 27(d) of this article, subject to the limits specified in such section.

39           4. Total state general revenue appropriations for any fiscal year may exceed total  
40 state general revenue appropriations for the immediately preceding fiscal year by more  
41 than the appropriations growth limit only under the following conditions:

42           (1) The governor declares an emergency, specifying the nature of the emergency  
43 and requesting appropriations to meet the emergency; and

44           (2) The general assembly, by a vote of two-thirds of the members elected to serve  
45 in each house, enacts and the governor approves a separate bill or bills appropriating  
46 moneys to meet the emergency. Any such appropriation bill or bills shall not be included  
47 in total state general revenue appropriations for purposes of compliance with subsection  
48 2 of this section for the next succeeding fiscal year.

49           5. The total state general revenue appropriations limit shall not be reduced or  
50 increased if the amount of total state revenues, as defined in section 17, article X of this  
51 constitution, for the prior fiscal year is less than the amount of total state revenues for the  
52 next preceding fiscal year.

53           6. The general assembly may enact laws implementing this section.

Section 27(a). 1. On July first following the adoption of this section, there is hereby  
2 established within the state treasury a fund to be known as the "[Budget] **Cash Operating**  
3 Reserve Fund". [The balances in the cash operating reserve fund and the budget stabilization  
4 fund shall be transferred to the budget reserve fund.] **Sixty-seven percent of the balance in the**  
5 **budget reserve fund on July first following the adoption of this section shall be transferred**  
6 **to the cash operating reserve fund.**

7           2. The commissioner of administration may, throughout any fiscal year, transfer amounts  
8 from the [budget] **cash operating** reserve fund to the general revenue fund or any other state  
9 fund without other legislative action if he **or she** determines that such amounts are necessary for  
10 the cash requirements of this state. Such transfers shall be deemed "cash operating transfers".

11           3. The commissioner of administration shall transfer from the general revenue fund or  
12 other recipient fund to the [budget] **cash operating** reserve fund an amount equal to the cash  
13 operating transfer received by such fund pursuant to subsection 2 of this section, together with  
14 the interest that would have been earned on such amount, prior to May sixteenth of the fiscal year  
15 in which the transfer was made. No cash operating transfers out of the [budget] **cash operating**  
16 reserve fund may be made after May fifteenth of any fiscal year.

17           4. Funds in the [budget] **cash operating** reserve fund shall be invested by the treasurer  
18 in the same manner as other state funds are invested. Interest earned on such investments shall  
19 be credited to the [budget] **cash operating** reserve fund. Subject to the provisions of subsection  
20 [7] **5** of this section, the unexpended balance in the [budget] **cash operating** reserve fund at the  
21 close of any fiscal year shall remain in the fund.

22           5. [In any fiscal year in which the governor reduces the expenditures of the state or any  
23 of its agencies below their appropriations in accordance with section 27 of this article, or in  
24 which there is a budget need due to a disaster, as proclaimed by the governor to be an emergency,  
25 the general assembly, upon a request by the governor for an emergency appropriation and by a  
26 two-thirds vote of the members elected to each house, may appropriate funds from the budget

27 reserve fund to fulfill the expenditures authorized by any of the existing appropriations which  
28 were affected by the governor's decision to reduce expenditures pursuant to section 27 of this  
29 article or to meet budget needs due to the disaster. Such expenditures shall be deemed to be for  
30 "budget stabilization purposes". The maximum amount which may be appropriated at any one  
31 time for such budget stabilization purposes shall be one-half of the sum of the balance in the  
32 fund and any amounts appropriated or otherwise owed to the fund, less all amounts owed to the  
33 fund for budget stabilization purposes but not yet appropriated for repayment to the fund.

34 6. One-third of the amount transferred or expended from the budget reserve fund for  
35 budget stabilization purposes during any fiscal year, together with interest that would otherwise  
36 have been earned on such amount, shall stand appropriated to the budget reserve fund during  
37 each of the next three fiscal years, and such amount, and any additional amounts which may be  
38 appropriated for that purpose, shall be transferred from the fund which received such transfer to  
39 the budget reserve fund by the fifteenth day of the fiscal year for each of the next three fiscal  
40 years or until the full amount, plus interest, has been returned to the budget reserve fund. The  
41 maximum amount which may be outstanding at any one time and subject to repayment to the  
42 budget reserve fund for budget stabilization purposes shall be one-half of the sum of the balance  
43 in the fund and all outstanding amounts appropriated or otherwise owed to the fund.

44 7. If the balance in the budget reserve fund at the close of any fiscal year exceeds seven  
45 and one-half percent of the net general revenue collections for the previous fiscal year, the  
46 commissioner of administration shall transfer that excess amount to the general revenue fund  
47 unless such excess balance is as a result of direct appropriations made by the general assembly  
48 for the purpose of increasing the balance of the fund; provided, however, that if the balance in  
49 the fund at the close of any fiscal year exceeds ten percent of the net general revenue collections  
50 for the previous fiscal year, the commissioner of administration shall transfer the excess amount  
51 to the general revenue fund notwithstanding any specific appropriations made to the fund. For  
52 purposes of this section, "net general revenue collections" means all revenue deposited into the  
53 general revenue fund less refunds and revenues originally deposited into the general revenue  
54 fund but designated by law for a specific distribution or transfer to another state fund.

55 **8.] If the balance in the cash operating reserve fund at the close of any fiscal year**  
56 **exceeds five percent of the net general revenue collections for the previous fiscal year, the**  
57 **commissioner of administration shall transfer the excess amounts to the taxpayer**  
58 **protection stabilization fund established by section 27(d) of this article notwithstanding**  
59 **any specific appropriations made to the cash operating reserve fund.**

60 6. If the sum of the ending balance of the [budget] **cash operating** reserve fund in any  
61 fiscal year [and any amounts owed to the fund pursuant to subsection 6 of this section] , **after**  
62 **any transfers made under subsection 3 of section 23(a) of this article**, is less than [seven and

63 one-half] **five** percent of the net general revenue collections for the same year, the difference  
64 shall stand appropriated and shall be transferred from the general revenue fund to the budget  
65 reserve fund by the fifteenth day of the succeeding fiscal year.

**Section 27(c). 1. On July first following the adoption of this section, there is hereby  
2 established within the state treasury a fund to be known as the "Budget Reserve Fund".  
3 Thirty-three percent of the balance in the budget reserve fund, as formerly established by  
4 section 27(a) of this article, as it exists on July first following the adoption of this section,  
5 shall remain in the budget reserve fund as established by this section.**

**6 2. In any fiscal year in which the governor reduces the expenditures of the state or  
7 any of its agencies below their appropriations in accordance with section 27 of this article,  
8 the general assembly, upon a proclamation by the governor that the reductions need to be  
9 restored and that no other funds are available for such restoration and upon his or her  
10 request for an emergency appropriation supported by a vote of two-thirds of the members  
11 elected to and serving in each house, may appropriate funds from the budget reserve fund  
12 to fulfill the expenditures authorized by any of the existing appropriations.**

**13 3. In any fiscal year in which there are appropriation needs due to an emergency  
14 proclaimed by the governor, and affirming that no other funds are available to meet such  
15 needs, the general assembly, upon a request by the governor for an emergency  
16 appropriation and by a vote of two-thirds of the members elected to and serving in each  
17 house, may appropriate funds from the budget reserve fund to meet the appropriation  
18 needs due to the emergency.**

**19 4. Funds in the budget reserve fund shall be invested by the state treasurer in the  
20 same manner as other state funds are invested. Interest earned on such investments shall  
21 be credited to the budget reserve fund. Subject to the provisions of subsection 5 of this  
22 section, the unexpended balance in the budget reserve fund at the close of any fiscal year  
23 shall remain in the fund.**

**24 5. If the balance in the budget reserve fund at the close of any fiscal year exceeds  
25 seven percent of the net general revenue collections for the previous fiscal year, the  
26 commissioner of administration shall transfer the excess amount to the taxpayer protection  
27 stabilization fund established by section 27(d) of this article notwithstanding any specific  
28 appropriations made to the fund.**

**29 6. If the sum of the ending balance of the budget reserve fund in any fiscal year,  
30 after any transfers made under subsection 3 of section 23(a) of this article, is less than  
31 seven percent of the net general revenue collections for the same year, the difference shall  
32 stand appropriated and shall be transferred from the general revenue fund to the budget  
33 reserve fund by the fifteenth day of the succeeding fiscal year, except that if the actual**

34 balance of the budget reserve fund remaining in the fund in accordance with this section  
35 is less than seven percent of net general revenue collections for the fiscal year prior to the  
36 adoption of this section, then the commissioner of administration shall transfer amounts  
37 necessary to reach seven percent of the previous year's net general revenue collections no  
38 later than five years from July first following the adoption of this section. The provisions  
39 of this subsection shall not apply following any fiscal year in which net general revenue  
40 collections are less than in the previous fiscal year.

41 7. The full amount of any funds appropriated and expended from the budget  
42 reserve fund under subsection 2 or 3 of this section shall be paid back to the fund no later  
43 than five years from the date of the original transfer.

Section 27(d). 1. On July first following the adoption of this section, there is hereby  
2 established with the state treasury a fund to be known as the "Taxpayer Protection  
3 Stabilization Fund". The fund shall receive transfers of all excess funds as provided in  
4 sections 23(a), 27(a), and 27(c) of this article.

5 2. Amounts transferred to the taxpayer protection stabilization fund shall be  
6 tracked by the commissioner of administration and applied in the same calendar year as  
7 such amounts are available to the temporary reduction of all state individual income tax  
8 rates rounded to the nearest one quarter of one percent. Amounts shall remain in the fund  
9 until such time as the commissioner determines that sufficient amounts exist for a  
10 reduction of at least one quarter of one percent of all state individual income tax rates. The  
11 commissioner of administration shall notify the director of revenue to reduce such rates  
12 accordingly and to adjust corresponding income tax returns to reflect the reduction. This  
13 subsection shall be self-enforcing, and the general assembly may enact laws implementing  
14 this subsection.

15 3. In any fiscal year in which the commissioner of administration determines that  
16 total state general revenue appropriations will exceed projected net general revenue  
17 collections, the general assembly, by a vote of two-thirds of the members elected to and  
18 serving in each house, may appropriate funds from the taxpayer protection stabilization  
19 fund as it deems necessary.

20 4. Under section 23.253, RSMo, of the Missouri sunset act:

21 (1) The provisions of the commonsense obligation to provide accountability and  
22 spending stabilization act authorized under sections 23(a), 27(a), 27(c), and 27(d) shall  
23 automatically sunset five years after the effective date of these sections unless reauthorized  
24 by an act of the general assembly; and

25           **(2) If such program is reauthorized, the program authorized under sections 23(a),**  
26 **27(a), 27(c), and 27(d) shall automatically sunset ten years after the effective date of the**  
27 **reauthorization of these sections; and**

28           **(3) These sections shall terminate on September first of the calendar year**  
29 **immediately following the calendar year in which the program authorized under these**  
30 **sections is sunset.**

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