

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE JOINT RESOLUTION NO. 43

96TH GENERAL ASSEMBLY

4953H.04P

D. ADAM CRUMBLISS, Chief Clerk

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.

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, 2012, 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Section A. Section 27(a), article IV, Constitution of Missouri, is repealed and four new sections adopted in lieu thereof, to be known as sections 23(a), 27(a), 27(c), and 27(d), to read as follows: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, the annual percentage change in the population of Missouri, and one and one-half percent of the previous fiscal year total state general revenue collections;

(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.

10 (3) "Inflation", means the rate of inflation as measured by the Consumer Price
11 Index for All Urban Consumers for the United States, annual average of the most recent
12 calendar year;

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

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

20 (6) "Total state general revenue appropriations", means the total of appropriations
21 from net general revenue collections for a fiscal year, including supplemental
22 appropriations from any regular, special, or extraordinary session from the previous fiscal
23 year from net general revenue collections, passed by the general assembly and approved
24 by the governor as reported by the office of administration, except reappropriations,
25 appropriations from general revenue required by this section and sections 27(a), 27(c), and
26 27(d), appropriations to pay principal and interest on general obligation bonded
27 indebtedness, and appropriations from general revenue for final court judgments and costs
28 in cases to the extent that the state was not the prevailing party. Any increase in funding
29 above the appropriation growth limit up to fully funding the foundation formula under
30 subsections 1 and 2 of section 163.031 as the foundation formula exists when this section
31 is approved by the voters will not be included in the calculation for the total state general
32 revenue appropriations.

33 2. For any fiscal year subsequent to a fiscal year in which total state general
34 revenue appropriations exceeded total state general revenue appropriations for fiscal year
35 2008, total state general revenue appropriations shall not exceed total state general revenue
36 appropriations for the immediately preceding fiscal year by more than the appropriations
37 growth limit determined by subsection 1 of this section, except that new or increased tax
38 revenues or fees that meet the exceptions in subsection 1, section 18(e), article X of this
39 constitution or receive voter approval shall be exempted from the calculation of the
40 appropriations growth limit for the year in which the additional revenue is collected.

41 3. For any fiscal year in which net general revenue collections exceed total state
42 general revenue appropriations allowed under subsection 2 of this section by more than
43 one and one-half percent but less than two and one-half percent of total state general
44 revenue appropriations allowed, the excess amount shall be appropriated solely for
45 reduction of state general obligation debt. For any fiscal year in which net general revenue

46 collections exceed total state general revenue appropriations allowed under subsection 2
47 of this section by more than two and one-half percent of total state general revenue
48 appropriations allowed, the commissioner of administration shall, by August first following
49 the end of the fiscal year, transfer thirty-three percent of the excess funds over two and
50 one-half percent to the cash operating reserve fund established by section 27(a) of this
51 article and sixty-seven percent of the excess funds over two and one-half percent to the
52 taxpayer protection stabilization fund established by section 27(d) of this article, subject
53 to the limits specified in such section.

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

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

59 (2) The general assembly, by a vote of two-thirds of the members elected to serve
60 in each house, enacts and the governor approves a separate bill or bills appropriating
61 moneys to meet the emergency. Any such appropriation bill or bills shall not be included
62 in total state general revenue appropriations for purposes of compliance with subsection
63 2 of this section for the next succeeding fiscal year.

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

68 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 27(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 **cash operating 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 and any amounts owed to the fund for the same year, is less than seven percent of the net
31 general revenue collections for the same year, the difference shall stand appropriated and
32 shall be transferred from the general revenue fund to the budget reserve fund by the
33 fifteenth day of the succeeding fiscal year, except that if the actual balance of the budget
34 reserve fund remaining in the fund in accordance with this section is less than seven
35 percent of net general revenue collections for the fiscal year prior to the adoption of this
36 section, then the commissioner of administration shall transfer amounts necessary to reach
37 seven percent of the previous year's net general revenue collections no later than five years
38 from July first following the adoption of this section. The provisions of this subsection
39 shall not apply following any fiscal year in which net general revenue collections are less
40 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 within 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 simple majority vote 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 under sections 23(a), 27(a), 27(c), and 27(d) shall be effective
23 once the total state general revenue appropriations for any fiscal year exceeds the total
24 state general revenue appropriations for fiscal year 2008 and shall automatically sunset
25 five years after the effective date of these sections unless reauthorized by an act of the
26 general assembly; and

27 (2) If such program is reauthorized, the program authorized under sections 23(a),
28 27(a), 27(c), and 27(d) shall automatically sunset ten years after the effective date of the
29 reauthorization of these sections; and

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

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