

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 35

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAGER.

Read 1st time January 21, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4602S.011

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 three new sections in lieu thereof relating to the commonsense obligation to provide accountability and spending stabilization act.

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

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

Section A. Section 27(a), article IV, Constitution of Missouri, is repealed
2 and three new sections adopted in lieu thereof, to be known as sections 23(a),
3 27(a), and 27(c), to read as follows:

**Section 23(a). 1. As used in this section and sections 27(a) and
2 27(c) of this article:**

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

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

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

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

12 year;

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

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

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

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

40 3. For any fiscal year in which net general revenue collections
41 exceed total state general revenue appropriations allowed under
42 subsection 2 of this section by more than one percent of total state
43 general revenue appropriations allowed, the commissioner of
44 administration shall, by August first following the end of the fiscal
45 year, transfer the excess funds over one percent to the cash operating
46 reserve fund established by section 27(a) of this article and to the
47 budget reserve fund established by section 27(c) of this article, subject
48 to the limits specified in such sections. Any such excess general

49 revenue funds remaining after such transfers shall be tracked by the
50 commissioner of administration and applied to the permanent
51 reduction of all state income tax rates as established in section 27(a).

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

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

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

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

70 6. The general assembly may enact laws implementing this
71 section.

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

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

13 3. The commissioner of administration shall transfer from the general
14 revenue fund or other recipient fund to the [budget] cash operating reserve

15 fund an amount equal to the cash operating transfer received by such fund
16 pursuant to subsection 2 of this section, together with the interest that would
17 have been earned on such amount, prior to May sixteenth of the fiscal year in
18 which the transfer was made. No cash operating transfers out of the [budget]
19 **cash operating** reserve fund may be made after May fifteenth of any fiscal year.

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

26 5. [In any fiscal year in which the governor reduces the expenditures of
27 the state or any of its agencies below their appropriations in accordance with
28 section 27 of this article, or in which there is a budget need due to a disaster, as
29 proclaimed by the governor to be an emergency, the general assembly, upon a
30 request by the governor for an emergency appropriation and by a two-thirds vote
31 of the members elected to each house, may appropriate funds from the budget
32 reserve fund to fulfill the expenditures authorized by any of the existing
33 appropriations which were affected by the governor's decision to reduce
34 expenditures pursuant to section 27 of this article or to meet budget needs due
35 to the disaster. Such expenditures shall be deemed to be for "budget stabilization
36 purposes". The maximum amount which may be appropriated at any one time for
37 such budget stabilization purposes shall be one-half of the sum of the balance in
38 the fund and any amounts appropriated or otherwise owed to the fund, less all
39 amounts owed to the fund for budget stabilization purposes but not yet
40 appropriated for repayment to the fund.

41 6. One-third of the amount transferred or expended from the budget
42 reserve fund for budget stabilization purposes during any fiscal year, together
43 with interest that would otherwise have been earned on such amount, shall stand
44 appropriated to the budget reserve fund during each of the next three fiscal years,
45 and such amount, and any additional amounts which may be appropriated for
46 that purpose, shall be transferred from the fund which received such transfer to
47 the budget reserve fund by the fifteenth day of the fiscal year for each of the next
48 three fiscal years or until the full amount, plus interest, has been returned to the
49 budget reserve fund. The maximum amount which may be outstanding at any
50 one time and subject to repayment to the budget reserve fund for budget

51 stabilization purposes shall be one-half of the sum of the balance in the fund and
52 all outstanding amounts appropriated or otherwise owed to the fund.

53 7. If the balance in the budget reserve fund at the close of any fiscal year
54 exceeds seven and one-half percent of the net general revenue collections for the
55 previous fiscal year, the commissioner of administration shall transfer that excess
56 amount to the general revenue fund unless such excess balance is as a result of
57 direct appropriations made by the general assembly for the purpose of increasing
58 the balance of the fund; provided, however, that if the balance in the fund at the
59 close of any fiscal year exceeds ten percent of the net general revenue collections
60 for the previous fiscal year, the commissioner of administration shall transfer the
61 excess amount to the general revenue fund notwithstanding any specific
62 appropriations made to the fund. For purposes of this section, "net general
63 revenue collections" means all revenue deposited into the general revenue fund
64 less refunds and revenues originally deposited into the general revenue fund but
65 designated by law for a specific distribution or transfer to another state fund.

66 **8.] If the balance in the cash operating reserve fund at the close**
67 **of any fiscal year exceeds five percent of the net general revenue**
68 **collections for the previous fiscal year, the commissioner of**
69 **administration shall transfer the excess amounts to the general revenue**
70 **fund notwithstanding any specific appropriations made to the cash**
71 **operating reserve fund. Excess amounts transferred under this**
72 **subsection and subsection 5 of section 27(c) of this article shall be**
73 **tracked by the commissioner of administration and immediately**
74 **applied to the permanent reduction of all state income tax rates**
75 **rounded to the nearest one quarter of one percent. The commissioner**
76 **of administration shall notify the director of revenue to reduce such**
77 **rates accordingly and to adjust corresponding income tax returns to**
78 **reflect the reduction. This subsection shall be self-enforcing, and the**
79 **general assembly may enact laws implementing this subsection.**

80 6. If the sum of the ending balance of the [budget] **cash operating**
81 reserve fund in any fiscal year [and any amounts owed to the fund pursuant to
82 subsection 6 of this section], **after any transfers made under subsection 3**
83 **of section 23(a) of this article**, is less than [seven and one-half] **five** percent
84 of the net general revenue collections for the same year, the difference shall stand
85 appropriated and shall be transferred from the general revenue fund to the
86 budget 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 established within the state treasury a fund to be known as the "Budget Reserve Fund". Thirty-three percent of the balance in the budget reserve fund, as formerly established by section 27(a) of this article, as it exists on July first following the adoption of this section, shall remain in the budget reserve fund as established by this section.

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

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

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

5. If the balance in the budget reserve fund at the close of any fiscal year exceeds seven percent of the net general revenue collections for the previous fiscal year, the commissioner of administration shall transfer the excess amount to the general revenue fund notwithstanding any specific appropriations made to the fund.

6. If the sum of the ending balance of the budget reserve fund in any fiscal year, after any transfers made under subsection 3 of section

38 23(a) of this article, is less than seven percent of the net general
39 revenue collections for the same year, the difference shall stand
40 appropriated and shall be transferred from the general revenue fund
41 to the budget reserve fund by the fifteenth day of the succeeding fiscal
42 year, except that if the actual balance of the budget reserve fund
43 remaining in the fund in accordance with this section is less than seven
44 percent of net general revenue collections for the fiscal year prior to
45 the adoption of this section, then the commissioner of administration
46 shall transfer amounts necessary to reach seven percent of the previous
47 year's net general revenue collections no later than five years from
48 July first following the adoption of this section. The provisions of this
49 subsection shall not apply following any fiscal year in which net
50 general revenue collections are less than in the previous fiscal year.

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

Bill ✓

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