

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

# HOUSE BILL NO. 1029

## 96TH GENERAL ASSEMBLY

4091L.01T

2012

---

---

### AN ACT

To repeal sections 23.140, 23.150, 23.160, 23.170, 23.180, 23.190, 23.200, and 23.265, RSMo, and to enact in lieu thereof seven new sections relating to the oversight subcommittee of the committee on legislative research.

---

---

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

Section A. Sections 23.140, 23.150, 23.160, 23.170, 23.180, 23.190, 23.200, and 23.265, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 23.140, 23.150, 23.160, 23.170, 23.180, 23.190, and 23.265, to read as follows:

23.140. 1. Legislation, with the exception of appropriation bills, introduced into either house of the general assembly shall, before being acted upon, be submitted to the oversight division of the committee on legislative research for the preparation of a fiscal note. The staff of the oversight division shall prepare a fiscal note, examining the items contained in subsection 2 and such additional items as may be provided either by joint rule of the house and senate or by resolution adopted by the committee or the oversight subcommittee.

2. The fiscal note shall state:

- (1) The cost of the proposed legislation to the state for the next two fiscal years;
- (2) Whether or not the proposed legislation will establish a program or agency that will duplicate an existing program or agency;
- (3) Whether or not there is a federal mandate for the program or agency;
- (4) Whether or not the proposed program or agency will have significant direct fiscal impact upon any political subdivision of the state;
- (5) Whether or not any new physical facilities will be required; and

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.

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

18 (a) Is independently owned and operated; and

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

20 3. The fiscal note for a bill shall accompany the bill throughout its course of passage.

21 No member of the general assembly, lobbyist or persons other than oversight division staff  
22 members shall participate in the preparation of any fiscal note unless the communication is in  
23 writing, with a duplicate to be filed with the fiscal note or unless requested for information by  
24 the fiscal analyst preparing the note. Violations of this provision shall be reported to the  
25 chairman of the legislative research committee and subject the fiscal note and proposed bill to  
26 subcommittee review. Once a fiscal note has been signed and approved by the director of the  
27 oversight division, the note shall not be changed or revised without prior approval of the  
28 chairman of the legislative research committee, except to reflect changes made in the bill it  
29 accompanies, or to correct patent typographical, clerical or drafting errors that do not involve  
30 changes of substance, nor shall substitution be made therefor. Appeals to revise, change or to  
31 substitute a fiscal note shall be made in writing by a member of the general assembly to the  
32 chairman of the legislative research committee and a hearing before the committee or  
33 subcommittee shall be granted as soon as possible. Any member of the general assembly, upon  
34 presentation of new or additional material, may, within three legislative days after the hearing  
35 on the request to revise, change or substitute a fiscal note, request one rehearing before the full  
36 committee to further consider the requested change.

37 The subcommittee, if satisfied that new or additional material has been presented, may  
38 recommend such rehearing to the full committee, and the rehearing shall be held as soon as  
39 possible thereafter.

40 4. The director of the division, hereinafter provided for, or the director's designees, shall  
41 seek information and advice from the affected department, division or agency of state  
42 government and shall call upon the research staffs of the house of representatives and of the  
43 senate, and upon the staffs of the house and senate appropriations committees for assistance in  
44 carrying out fiscal notes and [auditing functions and duties] **evaluations of programs selected**  
45 **by the committee**, during the interim, and each staff shall supply such information or advice as  
46 it [may possess] **deems appropriate** in response to the inquiry. The state auditor shall, upon  
47 request, cooperate and provide assistance in the conduct of audits and the preparation of reports  
48 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** of

3 state agencies, **including program evaluations involving budget transparency and**  
4 **accountability.** The committee may form a subcommittee of not less than six members to  
5 provide direct supervision of the personnel and practices of the division. The subcommittee shall  
6 consist of one-half of the members appointed by the [chairman] **chair** from the house which he  
7 **or she** represents and one-half of the members appointed by the vice [chairman] **chair** from the  
8 house which he **or she** represents.

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

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

22 3.] 2. As used in this chapter, the term "resources" includes appropriated funds, federal  
23 funds, grants, and personnel, and also includes equipment and space, whether assigned, owned  
24 or leased.

25 [4.] 3. As used in this chapter, the term "agency" includes each department and office  
26 within the executive branch of government and each identifiable unit thereof, including  
27 institutions of higher learning, and each identifiable unit of the legislative and judicial branches  
28 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] **quarterly**. [The subcommittee supervising the oversight division shall meet monthly  
14 to review progress reports, hear requests for changes in fiscal notes, and provide supervision for  
15 the 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. **The director of**  
19 **the division shall present program evaluations completed during the previous legislative**  
20 **interim period to appropriate committees of each chamber during early hearings of those**  
21 **committees at the next regular session.**

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.

23.265. 1. At the beginning of each regular session of the general assembly, the  
2 committee shall present to the general assembly and the governor a report on the programs  
3 scheduled to be sunset.

4 2. In the report, the committee shall include:

5 (1) Its specific findings regarding each of the criteria prescribed by section 23.268;

6 (2) Its recommendations based on the matters prescribed by section 23.271; and

7 (3) Any other information the committee deems necessary for a complete evaluation of  
8 the program.

9 **3. The director of the oversight division shall present such reports to the house**  
10 **budget committee and the senate appropriations committee at such time as requested by**  
11 **the chairs of such committees.**

2 [23.200. The staff of the committee on legislative research shall prepare  
3 a transfer-revision bill to be submitted to the ninetieth general assembly to revise  
4 the statutes so as to reflect the changes made by or pursuant to this act; except  
5 that, the committee on legislative research shall use fully the provisions of section  
6 3.060 where such provisions will suffice. At such time as all statutory revision  
7 changes required pursuant to this act have gone into effect the revisor of statutes  
may prepare legislation to repeal this section.]

✓