

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1391-02  
Bill No.: SS for HB 458 with SA 1 and SA 2  
Subject: Agriculture and Animals; Boards, Commissions, Committees, Councils;  
Agriculture Dept.  
Type: Original  
Date: May 12, 2011

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Bill Summary: This proposal establishes the Missouri Farmland Trust Act to receive donated land to preserve it as farmland and provide beginning farmers an opportunity to farm through low and variable cost leases on the land.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
General Revenue	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown less than \$100,000)</b>	<b>(Unknown less than \$100,000)</b>	<b>(Unknown less than \$100,000)</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 16 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Conservation Commission	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
Parks, Soil and Water	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
School District Trust	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
MO Farmland Trust Fund	(\$2,500)	Unknown Greater than \$3,791 to (\$2,575)	Unknown Greater than \$7,582 to (\$2,652)
Livestock Brands Fund	Unknown	Unknown	Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Unknown to (Unknown less than \$100,000)</b>	<b>Unknown to (Unknown less than \$100,000)</b>	<b>Unknown to (Unknown less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Local Government</b>	<b>(Unknown less than \$100,000)</b>	<b>(Unknown less than \$100,000)</b>	<b>(Unknown less than \$100,000)</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### Section 262.815 - Missouri Farmland Trust

Officials at the **Department of Agriculture (AGR)** state this proposed legislation allows individuals and entities to donate, gift, or otherwise convey farmland to the Missouri Department of Agriculture for the purpose of preserving the land as farmland and to give new farmers an opportunity to farm by allowing long term, low and variable cost leases.

AGR states lease revenues from participating beginning farmers will be deposited in the state treasury to the credit of the Missouri Farmland Trust Fund.

AGR states, the department will improve, maintain, operate, and regulate any such donated lands to promote agriculture and the general welfare using moneys in the Missouri Farmland Trust Fund. A board, appointed by the Director, will make recommendations to the Director on the appropriate uses of farmland in the trust, criteria to be used to select applicants for the program, and review and make recommendations regarding applications to lease farmland in the trust. Board members shall serve without financial compensation but, subject to appropriations, may be reimbursed for actual and necessary expenses. Upon appropriation, the department may make payments to counties for the value of land as payment in lieu of real and personal property taxes for privately owned land acquired after 8-28-11.

AGR states, the program will be administered by existing staff. Any program expenses will be paid from lease revenues.

The following assumptions were used to estimate annual program revenues:

#### **Land Donations:**

The Department of Conservation has a similar program that receives land donated for conservation purposes. Over the most recent five (5) years, they have received an average of 215 donated acres per year.

Although it is difficult to predict whether or not the Missouri Farmland Trust will receive more or less donated land, for the purposes of this fiscal estimate it is assumed the program will receive average donations of 215 acres per year.

ASSUMPTION (Continued)

**Lease Revenues:**

AGR states, recent survey data from the United States Department of Agriculture show the following average rental rates per acre of farmland:

Crop land = \$90 per acre  
Pasture land = \$31 per acre

Applying these average rental rates to a typical Missouri farm yields the following revenues:

67% cropland * \$90/acre =	\$60.30 per acre
33% pasture * \$31/acre =	\$10.23 per acre
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	\$70.53/acre @ Market Rate

AGR states, the program is intended to attract beginning farmers by allowing long term, low and variable leases, this analysis also assumes the lease rate will be only 25% of market rates in the first five years of the program. These assumptions generate the following annual revenues:

Year 1: 215 acres \* \$70.53/acre market rate \* 0.25 = \$3,791  
Year 2: 430 acres \* \$70.53/acre market rate \* 0.25 = \$7,582  
Year 3: 645 acres \* \$70.53/acre market rate \* 0.25 = \$11,373  
Year 4: 860 acres \* \$70.53/acre market rate \* 0.25 = \$15,164  
Year 5: 1,075 acres \* \$70.53/acre market rate \* 0.25 = \$18,955

AGR states these estimates are only an example of potential revenues. Actual revenues will be determined by farm acreage donated, market lease rates, and policies of the Farmland Trust Advisory Board.

Officials at **Budget and Planning** state, section 262.815 allows the Department of Agriculture to charge an administrative fee for lease application processing under the Missouri Farmland Trust Fund Act. B&P defers to the department for an estimate of any increase such a fee would generate in total state revenue and 18E calculations.

**Oversight** assumes in FY12 lease revenue will be \$0 as the program will be new and AGR will be in the process of acquiring land to be donated to the "Missouri Farmland Trust".

ASSUMPTION (Continued)

**Oversight** assumes the following annual lease revenues for the “Missouri Farmland Trust Fund”.

Year 1: 0 acres \* \$70.53/acre market rate \* 0.25 = \$0 to could exceed \$0  
Year 2: 215 acres \* \$70.53/acre market rate \* 0.25 = \$0 to could exceed \$3,791  
Year 3: 430 acres \* \$70.53/acre market rate \* 0.25 = \$0 to could exceed \$7,582  
Year 4: 645 acres \* \$70.53/acre market rate \* 0.25 = \$0 to could exceed \$11,373  
Year 5: 860 acres \* \$70.53/acre market rate \* 0.25 = \$0 to could exceed \$15,164  
Year 6: 1,075 acres \* \$70.53/acre market rate \* 0.25 = \$0 to could exceed \$18,955

**Oversight** assumes if AGR does not receive land into the “Missouri Farmland Trust” then no lease payments would be received.

**Oversight** assumes in future fiscal years lease payments will be set to equal the fund costs.

**Oversight** assumes that any administrative or necessary expenses related to this proposal for the “Missouri Farmland Trust Advisory Board” could be paid from revenues received by the “Missouri Farmland Trust Fund” or through existing appropriation.

Sections 263.190, 263.200, 263.220, 263.240 - Noxious Weeds

In response to the previous version of this proposal, officials at the **Department of Natural Resources (DNR)** assumed the proposed legislation seeks to define noxious weed as those designated by rule by the Department of Agriculture.

DNR stated, this proposal would allow the adjoining or aggrieved entities to take civil action against a landowner for not controlling the spread of any designated noxious weed.

DNR stated, the **Division of State Parks (DSP)** operates 85 parks and historic sites in Missouri. Management of the parks includes controlling noxious weeds. This proposal appears to be trying to bring consistency to the rules governing the control of noxious weeks. This proposal may require additional operating costs for some of our parks if DSP was required to engage in more multiflora or thistle weed control.

DNR assumed, this proposal could impact DSP if we need to engage in more multiflora or thistle control. However, DSP would anticipate any additional costs to be minimal.

ASSUMPTION (Continued)

Officials at the **Office of Administration - Division of Facilities Maintenance, Design and Construction** assume it is impossible to estimate the fines associated with noxious weeds left unattended on state owned property, therefore we have estimated the possible cost as zero to a possible excess of \$100,000.

Officials at the **Department of Elementary and Secondary Education** state the impact from this proposal is unknown.

**Oversight** assumes any fiscal impact associated with this proposal for state agencies and local political subdivisions would be minimal and could be absorbed by the state agency or local political subdivision with existing resources.

Officials at the **Department of Agriculture** assumes there is no fiscal impact from this proposed legislation.

Section 268.121 - Livestock Brand Book

Officials at the **Department of Agriculture (AGR)** assume this proposal removes the requirement that the Department print a livestock brands book and instead requires the list to be available on the internet.

AGR stated, there will be costs associated with making the brand book available on-line and the on-going maintenance and updating of the on-line brand book. However, those costs are not expected to exceed the printing and postage savings associated with this legislation.

AGR stated, the Division of Animal Health has an E&E appropriation to pay printing and postage expenses of the Livestock Brands book from the Livestock Brands Fund.

AGR stated, the department would save the printing and postage costs of the livestock brands book (printed once every 5 years) and the yearly supplements (in years when a new brand book isn't printed).

AGR stated, the livestock brands book is printed once every 5 years. It was last printed in FY10 at a cost of \$8,705. Associated postage costs were \$1,876 in FY10, bringing total costs for printing and postage to \$10,581.

ASSUMPTION (Continued)

AGR stated, a new livestock brands book will not be printed until FY15. However, an annual supplement to the brands book is printed each year at a cost of approximately 5 percent of the new book. Therefore, only the costs of the supplement ( $\$10,581 \times 5\% = \$529$ ) will be saved in FY11 through FY14. In FY15 total costs of approximately \$11,000 would be avoided as a result of this legislation.

AGR assumed there will be IT costs associated with moving the document to the internet along with on-going maintenance and update expenses. The exact dollar amount of those costs is unknown but for purposes of this fiscal note they are assumed to not exceed annual savings from not printing the supplement.

AGR stated, livestock brand registration fees and brand book sales revenues are deposited into the Livestock Brands Fund. Those fee revenues are used to pay for the printing and postage costs of this program. Although there will be a reduction in fee revenues due to the on-line availability of the brand book, the Department expects cost savings to offset most if not all of the revenue reductions.

**Oversight** assumes, as a result of this proposal, the Department of Agriculture would experience an unknown savings to the Livestock Brands Fund, related to the Livestock Brands Book and annual supplemental's availability online.

**Oversight** assumes the majority of the savings related to this proposal will be experienced outside of the fiscal note period in FY15, and every five years thereafter. However, an unknown savings to the Livestock Brands Fund, related to the cost of printing and mailing the annual supplemental, would occur within the fiscal note period.

Sections 276.401 - Missouri Grain Dealers Bushels of Grain Threshold

Officials at the **Department of Agriculture (AGR)** state section 276.401 relates to Grain Dealer Law. The change is being made from \$100,000 DOLLARS to 50,000 BUSHELs, which changes both the quantity and the units. The effect is to increase the dollar amount of grain a person can buy for his own feeding purposes and still be exempt from obtaining a grain dealer license. The change is needed to account for modern grain prices, which are much higher (about 3 times) than they were when the law was originally written. AGR assumes there is no fiscal impact from this proposed legislation.

**Oversight** assumes there is no fiscal impact related to the refund of fees and Missouri grain dealers.

ASSUMPTION (Continued)

Sections 276.421, 276.436, 276.441, 411.280 - Grain Dealers and Grain Warehouses

Officials at the **Department of Agriculture** assumed there is no fiscal impact related to this section.

**Oversight** assumes there is no fiscal impact from this proposed legislation on state or local government funds.

SA 1 - Conservation Easements

In response to similar legislation, LR 1469-01, HB 597 (2011), officials at the **Department of Natural Resources** state under this proposal, governmental bodies authorized to own land and charitable organizations or trusts would be allowed to hold a conservation easement, which is an easement designed to protect or preserve natural or cultural resources on land. A conservation easement could be created in the same manner as provided in law for other types of easements. The department does not anticipate any direct fiscal impact from this proposal

In response to similar legislation, LR 1469-01, HB 597 (2011), officials at the **Office of Administration - Division of Facilities Maintenance, Design and Construction, Department of Agriculture, Department of Transportation, and Department of Conservation** assumes there is no fiscal impact from this proposed legislation.

**Oversight** assumes there is no fiscal impact from this amendment.

SA 2 - Sales Tax Exemptions for Certain Farm Equipment

Officials from the **Office of Administration, Division of Budget and Planning (BAP)** assumes this proposal would not result in additional costs or savings to their organization.

BAP officials stated that this proposal would create sales tax exemptions for any freight charges on any exempt item, any costs for fabrication labor in conjunction with the sale of tangible personal property, any accessories for and upgrades to certain farm machinery and equipment, and for rotary mowers used exclusively for agricultural purposes. This proposal would reduce General and Total State Revenues, including education revenues, and local revenues. BAP does not have the necessary data to provide an estimate.

ASSUMPTION (Continued)

Officials from the **Department of Revenue (DOR)** assumed this proposal would add sales and use tax exemptions for freight charges on exempt items and for sales of accessories or upgrades to farm equipment and machinery and rotary mowers used for agriculture purposes.

DOR states, freight charges on exempt items are exempt from sales tax. The Department estimates the exemption for freight charges on exempt items would have an unknown negative impact of less than \$100,000.

DOR states, section 144.030 adds a sales tax exemption for sales of accessories or upgrades to farm equipment and machinery and rotary mowers used for agriculture purposes.

DOR states, accessories and upgrades used as replacement parts for farm equipment and rotary mowers used exclusively for agriculture purposes are currently exempt from sales tax. The Department estimates this exemption will have a negative impact on total state revenue of less than \$100,000.

**Oversight** is not able to determine the revenue reduction which would result from this proposal and will indicate a revenue reduction greater than \$100,000 for the General Revenue Fund and for local governments and an unknown revenue reduction for other state funds which receive sales and use tax revenues.

Bill as a Whole

Officials from the **Office of the Secretary of State (SOS)** assumed many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500.

The SOS recognized that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (Continued)

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the **State Treasurer’s Office, Missouri Tax Commission, Department of Economic, Development Division of Tourism**, assumed there is no fiscal impact from this proposed legislation.

**Oversight** assumes that the overall impact of this proposal will have an unknown negative impact on state and local revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>GENERAL REVENUE FUND</b>			
<u>Revenue Reduction</u> - sales tax exemptions - farm equipment (144.030)	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
<b>ESTIMATED NET EFFECT OF GENERAL REVENUE FUND</b>	<b><u>(Unknown less \$100,000)</u></b>	<b><u>(Unknown less than \$100,000)</u></b>	<b><u>(Unknown less than \$100,000)</u></b>
<b>CONSERVATION COMMISSION FUND</b>			
<u>Revenue Reduction</u> - sales tax exemptions - farm equipment (144.030)	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND</b>	<b><u>(Unknown less \$100,000)</u></b>	<b><u>(Unknown less \$100,000)</u></b>	<b><u>(Unknown less \$100,000)</u></b>

**PARKS, SOIL, AND WATER FUND**

<u>Revenue Reduction</u> - sales tax exemptions - farm equipment (144.030)	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
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<b>ESTIMATED NET EFFECT ON PARKS, SOIL, AND WATER FUND</b>	<b><u>(Unknown less \$100,000)</u></b>	<b><u>(Unknown less \$100,000)</u></b>	<b><u>(Unknown less \$100,000)</u></b>
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**SCHOOL DISTRICT TRUST FUND**

<u>Revenue Reduction</u> - sales tax exemptions - farm equipment (144.030)	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
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<b>ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND</b>	<b><u>(Unknown less \$100,000)</u></b>	<b><u>(Unknown less \$100,000)</u></b>	<b><u>(Unknown less \$100,000)</u></b>
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**MO FARMLAND TRUST FUND**

<u>Revenue</u> - Department of Agriculture Lease Payment (262.815)	\$0	\$0 to could exceed \$3,791	\$0 to could exceed \$7,582
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<u>Transfer Out</u> - Counties Payment in Lieu of Tax Paid (262.815)	\$0	(\$0 to Unknown)	(\$0 to Unknown)
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<u>Cost</u> - Department of Agriculture Board Member Reimbursement (262.815)	<u>(\$2,500)</u>	<u>(\$2,575)</u>	<u>(\$2,652)</u>
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<b>ESTIMATED NET EFFECT ON MO FARMLAND TRUST FUND</b>	<b><u>(\$2,500)</u></b>	<b><u>Unknown Greater than \$3,791 to (\$2,575)</u></b>	<b><u>Unknown Greater than \$7,582 to (\$2,652)</u></b>
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## FISCAL DESCRIPTION

SA 2 - Section 144.030 - Sales Tax Exemptions for Certain Farm Equipment - This bill exempts from state and local sales and use taxes the sale of any accessories and upgrades to farm machinery and equipment, rotary mowers used exclusively for agricultural purposes, freight charges on exempt items, and any costs for fabrication labor in conjunction with the sale of an item.

Section 268.121 - Livestock Brand Book - Currently, the Director of the Department of Agriculture must publish a list of all livestock brands in a book form and send a copy of the book and any supplement to the county recorder of deeds in each county and to each licensed livestock market and slaughter plant in the state. This bill removes this requirement and instead requires the department director to create a list and make it available on a publicly accessible web site. The list must be updated from time to time.

- (3) Allows any person who is engaged in a business providing an agritourism activity to register with the Director of the Department of Agriculture. The registration must contain a description of the agritourism activity he or she conducts or intends to conduct and the location where the activity will be conducted;
- (4) Specifies that the registration is for a period of two years and a fee of up to \$100 may be imposed on an applicant to cover the actual administrative costs associated with registration and the placement and maintenance of directional signage;
- (5) Requires the department to maintain and make available to the public a list of all registered agritourism operators, the registered agritourism activities conducted by each operator, and the registered agritourism location;
- (6) Requires the department to promote and publicize registered agritourism operators, activities, and locations by promoting and encouraging tourism;
- (7) Requires every registered agritourism operator to post and maintain signage at the agritourism location which contains a specified warning notice that there is no liability for certain injuries or the death of a participant in a registered agritourism activity;
- (8) Specifies that any participant is assuming certain inherent risks when participating in an agritourism activity;
- (9) Specifies that a registered agritourism operator is not liable for an injury to or the death of a

FISCAL DESCRIPTION (Continued)

participant resulting from the inherent risks of agritourism activities if the warning is posted as required unless the injury to the participant was by willful or wanton conduct or the

operator failed to make a dangerous condition known to a participant and the condition resulted in an injury;

(10) Specifies that the operator has an affirmative defense to liability if the injured person deliberately disregarded conspicuously posted signs, verbal instructions, or other warnings regarding safety measures during the activity or if any equipment, animals, or appliances used by the injured person during the activity were used in a manner or for a purpose other than that for which a reasonable person should have known they were intended; and

(11) Creates the Agritourism Fee Fund consisting of registration fees and moneys appropriated to the fund to be used solely for the placement and maintenance of directional signage and the administration of the provisions of the bill.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Agriculture  
Department of Corrections  
Department of Economic Development  
    Division of Tourism  
Department of Elementary and Secondary Education  
Department of Health and Senior Services  
Department of Natural Resources  
    Division of State Parks  
Department of Revenue  
Department of Transportation  
Office of Administration  
    Division of Facilities Maintenance, Design and Construction  
Office of Administration  
    Division of Budget and Planning  
Office of State Courts Administrator  
Office of the Secretary of State  
Office of the State Treasurer  
State Public Defender's Office  
State Tax Commission



Mickey Wilson, CPA  
Director  
May 12, 2011