

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0487-09
Bill No.: Perfected SS for SCS for SB 27
Subject: Agriculture and Animals; Crimes and Punishment; Health Department; Liability
Type: Original
Date: May 2, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue*	(\$20,424)	(\$26,131)	(\$26,768)
Missouri Public Health Services	\$1,370	\$9,136	\$10,504
Animal Care Reserve	(\$38,860) to Unknown	(\$3,990) to Unknown	(\$9,278) to Unknown
Total Estimated Net Effect on <u>All</u> State Funds	(\$57,914) TO UNKNOWN	(\$20,985) TO UNKNOWN	(\$25,542) TO UNKNOWN

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Conservation** and **Department of Agriculture** assume this portion of the proposal would not fiscally impact their agencies.

Department of Health (DOH) officials assume at 322.140 (2) that the department would investigate incidents of animal bites or exposure of persons with unknown rabies or other zoonotic disease in cooperation with the local public health agency in the county where the exposure occurred. This would conform to the usual and customary working relationship established between the department and the Missouri local public health agencies for investigating infectious diseases. Such investigations are more efficient when handled locally. Funding one FTE, a Health Program Representative III (\$39,048), would be necessary to assure that the mandates of this proposal are carried forth. The HPR III would work with the state public health veterinarian and would coordinate animal incident investigations and follow-up. The position would manage rabies reporting, data analysis and report preparation. The position would ensure all reported incidents of animal bites or exposure to humans are systematically investigated according to established protocols. In addition, the position would ensure all public health recommendations for animal quarantine, animal destruction and testing are carried out and that rabies prophylaxis is available and administered according to recommendations. The position would also track legal action relevant to the department concerning injured parties seeking restitution from the owner of the animal involved in the incident.

In 1999, DOH provided consultation for 248 incidents of persons bitten/exposed to animals with unknown rabies disease, or testing positive for rabies or zoonotic disease; approximately 150 of these animals (60%) had a known owner and approximately 98 (40%) of the animals were wild or had no known owner. Approximately 180 animals required quarantine for 10 days at an estimated cost of \$100.00 per animal. There is no cost to test an exposed person for rabies, as no test is available to identify rabies virus in humans immediately following an animal bite or contact to animal saliva in a scratch or mucous membrane to determine the necessity of rabies prophylaxis. Other tests for human exposure to zoonotic diseases cover a wide variation; therefore, this cost is unknown.

DOH states the State Public Health Lab tests approximately 1,370 animals per year suspected of having rabies and have exposed someone. According to the proposal, the individual owning the animal would be subject to paying the laboratory costs associated with the laboratory testing. The FY 2000 laboratory cost for rabies examination was \$43 per animal, and was absorbed by the General Revenue fund. An estimated laboratory cost of \$45 was used for FY 2002 with a 5%

ASSUMPTION (continued)

increase for subsequent years. \$45 is comprised of \$23 Personal Service, \$6 Fringe (DOH rate of 27%), and \$16 E&E. Based on percentages known and presented above, the DOH assumes that 40% (548 tests) would continue to be supported by General Revenue dollars. 60% of the 1,370 animals tested will have a known owner, and will therefore be funded by those owners, with revenue generated in the MOPHS (Mo Public Health Services) fund: $1,370 \times 60\% = 822$ tests. The resulting savings to the General Revenue fund is that the funding source for slightly over .5 of an existing Public Health Lab Scientist and associated E&E will be switched from GR to MOPHS. Calculations are as follows: $822 \text{ tests} \times \$45 \text{ per test} = \$36,990$. (\$18,770 salary, \$5,068 fringe, and \$13,152 E&E). Corresponding costs of lab testing under the MOPHS fund would increase, because of the department's allowable indirect cost rate of 37.5% applied to salaries and fringe benefits. For this reason, the revenue generated in MOPHS and the savings attained in General Revenue would not match dollar for dollar. No indirect costs can be applied to General Revenue. Calculations are as follows: $(\$23 \text{ Personal Service} + \$6 \text{ Fringe}) \times 37.5\% \text{ indirect} = \11 rounded to the nearest dollar. This brings the estimated cost per test to \$56: \$23 PS + \$6 Fringe + \$16 E&E + \$11 Indirect. Therefore, revenues are anticipated to be $822 \text{ tests} \times \$56 = \$46,032$ MOPHS fund. The department assumes that the State Public Health Lab would be permitted under this legislation to charge a fee estimated at \$56 for the costs of such test, and the owner would make such amount payable to the Missouri Public Health Services Fund. The department would deposit such payment into the fund.

Amendment 2

Officials from the **Office of State Treasurer** and the **Office of State Courts Administrator** assume this portion of the proposal would have no fiscal impact on their agencies.

In response to similar legislation (SB 511), officials from the **Office of Prosecution Services** assume this portion of the proposal would have no fiscal impact on their agency.

Officials from the **Office of Administration - Division of Budget and Planning** assume this portion of the proposal should not result in additional costs or savings to their agency. Officials noted that there would be impact on total state revenue.

Officials from the **Office of State Public Defender** (SPD) assume this portion of the proposal would have minimal impact on their agency. Officials assume that existing staff could provide representation for those cases arising where indigent persons were charged with operating an animal care facility without a license or fraudulently obtaining a license to operate or providing false registration information - Class A misdemeanors. However, passage of more than one similar bill would require the SPD System to request increased appropriations to cover the cumulative cost of representing the indigent accused in the additional cases.

ASSUMPTION (continued)

Officials from the **Department of Health** (DOH) assume this portion of the proposal would not be expected to significantly impact the operations of the department. However, if the proposal were to substantially impact the DOH programs, then the department would request funding through the appropriations process.

Officials from the **Department of Corrections** assume the impact of this portion of the proposal would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of Secretary of State** assume this portion of the proposal would revise the Animal Care Facilities Act. The State Veterinarian or his/her licensing authority would promulgate rules to implement this proposal. Based on experience with other divisions, the rules, regulations and forms issued by the State Veterinarian or his/her licensing authority could require as many as 16 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the *Code* because cost statements, fiscal notes and the like are not repeated in the *Code*. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. Therefore, the estimated costs for FY 02 are \$984. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple proposals pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Agriculture** (AGR) did not respond to our fiscal impact request. However, in response to a similar proposal this session, AGR assumed this portion of the proposal raises the per capita fee for some facilities and removes the maximum license fee on other facilities currently licensed by the ACFA program. Using numbers of facilities licensed in the categories of commercial breeders, dealers, pet shops and hobby/show licensed as of February 2, 2001, and adding the "Animal distributors premises" under the proposed language to facilities that need to be licensed, the new licensing fees reflect an increase of \$201,500 for the Animal Care Reserve Fund. In reviewing the department's past records, history shows a consistent number of participants and funds. For this reason officials will project FY 2003 and FY 2004 fees to be the total collection of fees from the proposed legislation as reported in FY 2002.

There were 988 commercial breeders (CB's) licensed. With the current fee structure, CB's paid \$156,414.50. Under the proposed legislation, CB's would pay \$215,166. A net gain with the

ASSUMPTION (continued)

proposed fee language of \$58,752, an average increase of \$59 for each CB to be licensed under the new proposal. There are 176 CB's still needing to license and the department assumes that the \$59 average increase would also apply to these facilities. The total number of CB's to be licensed would be 1,164 making the total increase for CB's to be \$68,676. The average license for CB's will go from \$158 to \$216 with the proposed legislation.

There are 65 dealers (DL's) licensed. With the current fee structure, DL's paid \$25,182. Under the proposed legislation, DL's would pay \$65,000. A net gain of \$39,818 with the proposed fee language, an average increase of \$2,048 for each DL to be licensed under the new proposal. There are 18 DL's still needing to license and the department assumes that the \$1,000 cap would also apply to these facilities. The total number of DL's to be licensed would be 83 making the total increase for DL's to be \$83,000. The average license for DL's would go from \$387 to \$1,000 with the proposed legislation.

There are 53 pet shops licensed. With the current fee structure, pet shops paid \$14,845. Under the proposed legislation, pet shops would pay \$20,223. A net gain of \$5,378 with the proposed fee language, an average increase of \$101 for each pet shop to be licensed under the new proposal. There are 13 pet shops still needing to license. The total number of pet shops to be licensed would be 66 making the total increase for pet shops to be \$6,666. There are 18 hobby/show licensed. With the current fee structure, hobby/show paid \$2,119. Under the proposed legislation, hobby/show would pay \$1,000. A net loss of \$25,884 with the proposed fee language, an average decrease of \$1,438 for each hobby/show.

There are 77 boarding kennels licensed. With the current fee structure, boarding kennels (BK's) paid \$26,349.70. Under the proposed legislation, boarding kennels would pay \$62,027. A net gain of \$52,432 with the proposed fee language, an average increase of \$464 for each BK to be licensed under the new proposal. There are 36 BK's still needing to license and the department assumes that the \$464 average increase would also apply to these facilities. The total number of BK's to be licensed would be 113 making the total increase for BK's to be \$52,432. The average license for BK's would go from \$342.21 to \$806 with the proposed legislation.

There are 7 pet sitters (PS's) licensed. With the current fee structure, PS's paid \$1,244.20. Under the proposed legislation, PS's would pay \$1,591. A net gain with the proposed fee language of \$347, an average increase of \$50 for each PS to be licensed under the new proposal. The total increase for PS's would be \$350. The average license for PS's will go from \$177.74 to \$227.29 with the proposed legislation.

There are 31 contract kennels (CK's) licensed. With the current fee structure, CK's paid \$9,716. Under the proposed legislation, CK's would pay \$14,016. A net gain with the proposed fee language of \$4,300, an average increase of \$108.71 for each CK to be licensed. There are 17

ASSUMPTION (continued)

facilities still needing to license and the department assumes that the \$108.71 would also apply to these facilities. The total number of CK's would be 48 making the total increase to be \$5,218. The average license for CK's will go from \$177.74 to \$227.29.

Along with these four categories, the proposed legislation includes "Animal distributor premises" to be licensed. Currently these facilities are not licensed nor pay a per capita. Assuming that there is one premise in each county of Missouri (114) there would be 114 new facilities licensed at \$100 each and assuming that each facility handles 50 animals, these 114 new facilities would generate \$17,100 in licensing fees.

The AGR has requested five new FTE's. These five FTE's would check records, investigate complaints and enforce regulations along with added responsibilities from the proposed legislation. With the proposed legislation including the "Animal distributor premises" to be licensed, it would require two FTE's to monitor the license holder and the activity on these premises. The proposed legislation is requiring the licensing authority to investigate the facility no sooner than thirty days after and no later than ninety days after the revocation, denial or non-renewal to verify that there is no evidence of activity. This would require one additional FTE because it would take more time to determine if any activity is taking place than an average inspection. Also, the proposed legislation is asking to increase the frequency of inspections for repeated violations. To increase the number of inspections and the time involved it would take two FTE's to handle the increase.

Oversight assumes that in this portion of the proposal the licensing authority would be allowed to assess an administrative penalty for violations. This portion of the proposal would allow the penalties collected to be credited to the Animal Care Reserve Fund instead of to the General Revenue Fund. Oversight assumes the effect of this change is unknown.

In addition, **Oversight** has reflected unknown income for the Animal Care Reserve Fund as per the proposal, such fund may receive "gifts, grants, contributions, appropriations and funds or benefits".

Oversight notes that under certain circumstances the licensing authority shall issue written reports to local law enforcement authorities. Oversight also notes that ACFA compliance officials are to report certain information to the local law enforcement authority and local animal control authority. The proposal also indicates that the licensing authority is to cooperate with local law enforcement authorities in seeking prosecution pursuant to sections 578.005 to 578.023. Oversight assumes that any costs related to such language in the proposal relating to counties/cities could be absorbed with existing resources, therefore has reflected a fiscal impact of \$0 to local government.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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GENERAL REVENUE FUND

Savings - Department of Health

Personal service (.5 FTE)	\$18,770	\$19,239	\$19,720
Fringe benefits	\$5,068	\$6,412	\$6,573
Expense and equipment	<u>\$13,152</u>	<u>\$13,547</u>	<u>\$13,953</u>
Total <u>Savings</u> - Department of Health	<u>\$36,990</u>	<u>\$39,198</u>	<u>\$40,246</u>

Costs - Department of Health

Personal service (1 FTE)	(\$33,354)	(\$41,025)	(\$42,050)
Fringe benefits	(\$11,117)	(\$13,674)	(\$14,015)
Expense and equipment	<u>(\$12,943)</u>	<u>(\$10,630)</u>	<u>(\$10,949)</u>
Total <u>Costs</u> - Department of Health	<u>(\$57,414)</u>	<u>(\$65,329)</u>	<u>(\$67,014)</u>

Loss - Department of Agriculture

Penalties Assessed	(Unknown)	(Unknown)	(Unknown)
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**ESTIMATED NET EFFECT ON
GENERAL REVENUE FUND***

<u>(\$20,424)</u>	<u>(\$26,131)</u>	<u>(\$26,768)</u>
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***Does not include unknown loss on penalties assessed.**

**MISSOURI PUBLIC HEALTH
SERVICES FUND**

Revenue - Department of Revenue

Laboratory fees	<u>\$38,360</u>	<u>\$48,334</u>	<u>\$50,750</u>
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Costs - Department of Health

Personal service (.5 FTE)	(\$18,770)	(\$19,239)	(\$19,720)
Fringe benefits	(\$5,068)	(\$6,412)	(\$6,573)
Expense and equipment	<u>(\$13,152)</u>	<u>(\$13,547)</u>	<u>(\$13,953)</u>
Total <u>Costs</u> - Department of Health	<u>(\$36,990)</u>	<u>(\$39,198)</u>	<u>(\$40,246)</u>

**ESTIMATED NET EFFECT ON
MISSOURI PUBLIC HEALTH
SERVICES FUND**

<u>\$1,370</u>	<u>\$9,136</u>	<u>\$10,504</u>
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<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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ANIMAL CARE RESERVE FUND

Income - Department of Agriculture

Increased Fees	\$201,500	\$201,500	\$201,500
Gift, Grants, Contributions, etc.	Unknown	Unknown	Unknown
Penalties Assessed	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

Total <u>Income</u> - Department of Agriculture	<u>\$201,500 to</u> <u>Unknown</u>	<u>\$201,500 to</u> <u>Unknown</u>	<u>\$201,500 to</u> <u>Unknown</u>
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Cost - Department of Agriculture

Personal Service (5 FTE)	(\$106,805)	(\$131,370)	(\$134,654)
Fringe Benefits	(\$35,598)	(\$43,786)	(\$44,880)
Expense and Equipment	<u>(\$97,957)</u>	<u>(\$30,334)</u>	<u>(\$31,244)</u>

Total <u>Costs</u> - Department of Agriculture	<u>(\$240,360)</u>	<u>(\$205,490)</u>	<u>(\$210,778)</u>
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**ESTIMATED NET EFFECT ON
ANIMAL CARE RESERVE FUND**

<u>(\$38,860) to</u> <u>Unknown</u>	<u>(\$3,990) to</u> <u>Unknown</u>	<u>(\$9,278) to</u> <u>Unknown</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

Those small businesses in the animal industry as addressed in this proposal would be impacted as a result of this proposal.

DESCRIPTION

This proposal would provide for the Department of Health to investigate and issue orders in instances where an animal has bitten or otherwise exposed a person to the possibility of contracting rabies or any zoonotic disease when counties have not adopted rules pursuant to Sections 322.090 to 322.130. The Department of Health would investigate the incident and issue

DESCRIPTION (continued)

orders to prevent and control rabies or zoonotic disease. The Department of Health would have discretion to order the animal quarantined, isolated, impounded, immunized or disposed of. The Department of Health would be granted rulemaking authority concerning the classification of a disease as a zoonotic disease. It would be a Class A misdemeanor for the owner of an animal to knowingly fail or refuse to comply with the orders of the Department of Health or to attempt to transfer or dispose of the animal. This proposal would make the owner of the animal responsible for the costs associated with the incident. The owner of the animal would be liable to the injured person for all damages except when the damaged party directly contributed to the injury. This proposal would also require owners of non-human primates to register the animal with the local law enforcement agency in the county in which the animal is kept. Failure to register the animal is a Class C misdemeanor.

The proposed legislation revises the provisions of the Animal Care Facilities Act. Adequate water must be clean, fresh, unfrozen, potable and supplied in a sanitary manner. Continuous water shall be supplied if the ambient temperature is more than 85 degrees. Persons who operate an animal distributor premises or auction, or act as an intermediate handler are added to the list of persons required to obtain a license. The fee for the license is changed to \$100 plus a per capita fee of \$1 per animal handled at the facility.

Duties assigned to the Director of the Department of Agriculture are transferred to the licensing authority who is the state veterinarian. The authority of the licensing authority to refuse to issue or renew or revoke a license is expanded. Application for a license will be deemed to be consent to right of entry and inspection by the licensing authority. The licensing authority must do an inspection when a complaint is received unless it is determined that there have been multiple unsubstantiated complaints. Persons who intentionally fail or refuse to perform an inspection are subject to suspension or dismissal. The licensing authority is given authority to promulgate rules regarding inspections of facilities. Animal care facilities act compliance officials are required to report all violations, provide a copy to the facility and maintain a record. Conflicts of interest are clearly defined and employees who have a conflict of interest may not act and another qualified person must be appointed to perform the act. A person who has a conflict of interest may not administer the Animal Care Facilities Act Program. The authority of the licensing authority to deal with violations is expanded.

Compliance officials shall report animal abuse or neglect to local law enforcement authorities and the local animal control authority. The licensing authority will publish a quarterly listing of enforcement activity. Animal shelters, pounds and dog pounds will not be subject to reinspection fees. Persons who intentionally provide false information on the registration form will be guilty of a Class A misdemeanor. Animals with infectious diseases must be reported to the State Department of Health. The advisory committee is expanded to 17 people. The Animal Care Reserve Fund is enabled to accept gifts, grants, contributions, appropriations and funds and a

DESCRIPTION (continued)

complete listing of donors and amounts given will be available for review.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space. However, officials from the AGR noted that the commercial breeders and dealers that are mentioned in this proposal are also licensed with the USDA/REAC program of the federal government.

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 Health
Department of Conservation
Department of Agriculture
Department of Corrections
Office of Administration
Division of Budget and Planning
Office of Prosecution Services
Office of Secretary of State
Office of State Courts Administrator
Office of State Public Defender
Office of State Treasurer



Jeanne Jarrett, CPA
Director

May 2, 2001