

FIRST REGULAR SESSION

# HOUSE BILL NO. 543

## 98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOUGHTON.

1254H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal sections 261.010, 261.020, 261.023, 261.025, 261.026, 261.027, 261.030, 261.035, 261.040, 261.050, 261.060, 261.090, 261.095, 261.100, 261.125, 261.200, 261.230, 261.235, and 261.239, RSMo, and to enact in lieu thereof twenty-two new sections relating to the office of agriculture, with a contingent effective date.

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

Section A. Sections 261.010, 261.020, 261.023, 261.025, 261.026, 261.027, 261.030, 261.035, 261.040, 261.050, 261.060, 261.090, 261.095, 261.100, 261.125, 261.200, 261.230, 261.235, and 261.239, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 261.004, 261.005, 261.007, 261.009, 261.020, 261.023, 261.025, 261.026, 261.027, 261.030, 261.035, 261.040, 261.050, 261.060, 261.090, 261.095, 261.100, 261.125, 261.200, 261.230, 261.235, and 261.239, to read as follows:

**261.004. The term "department of agriculture" shall be referred to as the "office of agriculture", the term "director of agriculture" shall be referred to as "secretary of agriculture", and the term "director of the department of agriculture" shall be referred to as "secretary of the office of agriculture". The revisor of statutes shall make the appropriate changes to all such references in the revised statutes when denoting the state office of agriculture.**

**261.005. The secretary of agriculture shall hold office for a term of four years beginning at 12:00 noon on the second Monday in January next after his or her election and until a successor is elected and qualified.**

**261.007. The secretary of agriculture, before entering upon the duties of his or her office, shall take and subscribe an oath or affirmation to support the Constitution of the**

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.

3 **United States and of this state, and to demean himself or herself faithfully in office, which**  
4 **shall be endorsed upon his or her commission.**

261.009. The secretary of agriculture is authorized to appoint, and within the limits  
2 **of his or her appropriation to fix the compensation of such supervisors and other**  
3 **employees as may be necessary in the performance of his or her duties under the law.**

261.020. The [state director of the department of agriculture is hereby constituted]  
2 **secretary of agriculture** is the official who has supervision of all [the legalized departments of  
3 the state which are of a regulatory nature for the advancement of horticulture and agriculture]  
4 **agricultural programs established by law**, except after January 1, 1996, he or she shall not  
5 have direct supervision of the state fair. He or she shall cooperate with the college of agriculture  
6 of the University of Missouri in all ways beneficial to the horticultural and agricultural interests  
7 of the state, without duplicating research, extension or educational work conducted by said  
8 college, but nothing herein shall be construed as to subordinate the state [department] **office** of  
9 agriculture to the said college of agriculture. The [director] **secretary of agriculture** has charge  
10 of the veterinary service of the state, the appointment of the state veterinarian, and, with the  
11 advice of the veterinarian, of deputy veterinarians, and other assistants. The [director] **secretary**  
12 has the power of reasonable quarantine in relation to the regulatory laws of the state [department]  
13 **office** of agriculture, and the power of quarantine in relation to livestock diseases includes  
14 poultry. It is the duty of the [director] **secretary** to gather and compile helpful statistics and  
15 information, singly or in cooperation with the federal government, relating to horticulture and  
16 agriculture, and he or she may publish bulletins not duplicating available educational bulletins  
17 of the college of agriculture and the United States Department of Agriculture. He or she may  
18 charge a reasonable amount for any publication distributed by the [department] **office** of  
19 agriculture. Any funds received from the amounts so charged shall be deposited to the credit of  
20 the general revenue fund. The [director] **secretary** shall make a biennial report to the governor  
21 and the general assembly, including the essential information relating to horticulture and  
22 agriculture, especially crops and livestock, also data concerning the agricultural organizations  
23 of the state, accompanied by recommendations relating to the state [department] **office** of  
24 agriculture and the advancement of agricultural education.

261.023. [1. There is hereby created a department of agriculture to be headed by a  
2 director of the department of agriculture to be appointed by the governor, by and with the advice  
3 and consent of the senate. The director shall possess the qualifications presently provided by law  
4 for the position of commissioner of agriculture.

5 2. All powers, duties and functions now vested by law to] **The secretary of agriculture**  
6 **shall have the following powers, duties, and functions of:**

7           (1) The [commissioner] **director** of the department of agriculture and the department of  
8 agriculture, chapter 261 and others[, are transferred by type I transfer to the director of the  
9 department of agriculture and to the department of agriculture herein created.] ;

10           [3.] (2) The state horticultural society created by sections 262.010 and 262.020 [is  
11 transferred by type I transfer to the department of agriculture.] ;

12           [4. All the powers, duties, and functions vested in] (3) The state milk board, chapter  
13 196[, are transferred to the department of agriculture by type III transfer]. The appointed  
14 members of the board shall be nominated by the [department director] **secretary of agriculture**,  
15 and appointed by the governor with the advice and consent of the senate. The department of  
16 health and senior services shall retain the powers, duties and functions assigned by chapter 196[.]  
17 ;

18           [5. All the powers, duties, functions and properties of the state fruit experiment station,  
19 chapter 262, are transferred by type I transfer to the Southwest Missouri State University and  
20 fruit experiment station board of trustees is abolished.

21           6. All the powers, duties and functions of the department of revenue relating to] (4) The  
22 inspection of motor fuel and special fuel distributors, chapters 323 and 414[, are transferred by  
23 type I transfer to the department of agriculture and to the director of that department]. The  
24 collection of the taxes provided in chapters 142 and 136, however, shall be made by the  
25 department of revenue.

261.025. The [director] **state secretary** of agriculture is hereby designated as the state  
2 official of the state of Missouri to make application to and receive from the Secretary of  
3 Agriculture of the United States, or any other proper federal official, pursuant and subject to the  
4 provisions of Public Law 499, Eighty-first Congress, approved May 3, 1950 (40 U.S.C.A. §§  
5 440-444), the trust assets, either funds or property, held by the United States as trustee in behalf  
6 of the Missouri rural rehabilitation corporation.

261.026. 1. The [director] **state secretary** of agriculture is authorized and directed to  
2 enter into agreements with the Secretary of Agriculture of the United States pursuant to section  
3 2(f) (40 U.S.C.A. § 440f) of the aforesaid act of the Congress of the United States, upon such  
4 terms and conditions and for such periods of time as may be mutually agreeable, authorizing the  
5 Secretary of Agriculture of the United States to accept, administer, expend and use in the state  
6 of Missouri all of such trust assets for carrying out the purposes of Titles I and II of the  
7 Bankhead-Jones Farm Tenant Act (7 U.S.C.A. §§ 1001-1007a), in accordance with the  
8 applicable provisions of Title IV thereof (7 U.S.C.A. §§ 1030-1039), as now or hereafter  
9 amended, and to do any and all things necessary to effectuate said agreements.

10           2. The United States and the Secretary of Agriculture thereof shall be held free from  
11 liability by virtue of any transfer of such assets to the [director] **state secretary** of agriculture.

261.027. 1. [The director of agriculture of the state of Missouri shall, as soon as possible after August 13, 1988, terminate the agreement between the director of agriculture and the Secretary of Agriculture of the United States under which trust assets of the Missouri Rural Rehabilitation Corporation, assigned to the director of agriculture by the Secretary of Agriculture of the United States pursuant to Public Law 499, 81st Congress, approved May 3, 1950 (40 U.S.C.A. 440-444), and sections 261.025 and 261.026, have been administered by the Secretary of Agriculture. The director of agriculture shall request the return to the state of Missouri of all or a part of the cash assets now under the control of the Secretary of Agriculture and the assets consisting of loans insured by the Secretary of Agriculture.

2. The director is also] **The state secretary of agriculture** is authorized to enter into new agreements with the Secretary of Agriculture pursuant to Public Law 499 and for return to the state of Missouri, from time to time, of additional trust assets.

[3.] **2.** Any assets received from the Secretary of Agriculture shall be transferred to the state treasury and credited to a special fund which is hereby established and which shall be known as the "Agriculture Development Fund". The agriculture development fund shall be under the control of the [director of the department] **secretary** of agriculture, who shall provide for the investment and reinvestment of the fund in secured or insured agricultural loans, government bonds, or other convertible securities. The fund and any income or interest received from the investment thereof may be released by and at the discretion of the [director] **secretary** of agriculture for agricultural development and rehabilitation purposes.

261.030. The [director] **secretary** of agriculture or [his] **the secretary's** successor at law shall investigate the marketing of farm products, including the cost of production and distribution thereof, furnish advice and assistance to producers, distributors and consumers and promote effectual and economical methods of marketing farm products. The [director] **secretary** of agriculture may establish, administer and enforce the standards of grades, weights and measures established and/or recommended by the United States Department of Agriculture, except as otherwise provided by the laws of this state. The [director] **secretary** may conduct shipping point and terminal market grading and inspection service alone or in cooperation with the United States Department of Agriculture and license inspectors, issue certificates on the products inspected, determine and collect and pay a reasonable service charge on the work done, and do each and every act necessary to render the grading and inspection service of greatest value to Missouri agriculture. The [director] **secretary** of agriculture may publish bulletins containing information useful to the producer and consumer; may conduct exhibits and do everything necessary to provide ample material therefor; may conduct and/or cooperate in any kind of activity for fostering and promoting better handling, care, standardization and grading of farm products, and he may pay cash premiums from appropriations made in connection with

17 agriculture exhibits, whenever in his **or her** judgment the same is desirable. The [director]  
18 **secretary** shall foster, encourage, and assist in the organization and development of cooperative  
19 associations and movement to aid in solving problems of marketing farm products; may collect  
20 and disseminate by telegraph, mail or otherwise, timely information useful to producers,  
21 distributors and consumers concerning the weather, the supply, demand, prevailing prices,  
22 market conditions and commercial movements of farm products, including quantities in common  
23 and in cold storage and may cooperate in the distribution of farm labor insofar as found  
24 acceptable to the state and federal labor departments.

261.035. 1. There is hereby created in the state treasury for the use of the agriculture  
2 business development division of the state [department] **office** of agriculture a fund to be known  
3 as "The Agriculture Business Development Fund". All moneys received by the state  
4 [department] **office** of agriculture for marketing development from any source within the state  
5 shall be deposited in the fund.

6 2. Moneys deposited in the fund shall, upon appropriation by the general assembly to the  
7 state [department] **office** of agriculture, be expended by the state [department] **office** of  
8 agriculture and for no other purposes.

9 3. The unexpended balance in the agriculture business development fund at the end of  
10 the biennium shall not be transferred to the ordinary revenue fund of the state treasury and  
11 accordingly shall be exempt from the provisions of section 33.080 relating to transfer of funds  
12 to the ordinary revenue funds of the state by the state treasurer.

261.040. 1. The [director] **secretary** of agriculture, before entering upon the duties of  
2 his **or her** office, shall give bond [in the sum of five thousand dollars, which bond, when  
3 approved by the governor, shall be filed with the secretary of state] , **with security to be**  
4 **approved by the governor, to the state of Missouri in the sum of five thousand dollars,**  
5 **conditioned that he or she will well and truly perform the duties of secretary of**  
6 **agriculture; which bond shall be attested by the governor, and deposited in the office of the**  
7 **governor.**

8 2. The [director] **secretary**, within available appropriations, shall have authority to  
9 appoint a state fair secretary, clerks, stenographers, inspectors, and other employees necessary  
10 all at the salaries fixed by law for the administration of this law and other laws under his **or her**  
11 charge as a consolidated [department] **office** conducted on an economical business basis. The  
12 [director] **secretary** shall have authority to combine the duties of and to discharge any employee  
13 of the state [department] **office** of agriculture. Each inspector shall be required to perform  
14 inspection duties under all inspection laws administered by the [director] **secretary**. The  
15 [director] **secretary** is hereby authorized to require and approve the bond of any employee

16 responsible for the safe handling of any state revenue or fees, or state property, whenever he shall  
17 deem it reasonably necessary to protect the interests of the state.

261.050. Upon the filing of proper vouchers and requisitions, duly certified by the  
2 [director] **secretary**, warrants shall be issued monthly, as provided by law, upon the state  
3 treasurer for the payment of all approved salaries and accounts under the jurisdiction of the state  
4 [department] **office** of agriculture.

261.060. All moneys collected by or through the [director of the department] **secretary**  
2 of agriculture from fees, licenses, permits or other earnings under any law, other than the  
3 business of the Missouri state fair, shall be deposited daily in the state treasury to the credit of  
4 the agricultural fees fund, which shall be subject to appropriation by the general assembly.

261.090. The state [department] **office** of agriculture and other agencies of the state  
2 government dealing with the production, handling and marketing of farm products shall  
3 cooperate with each other in the interest of economy, harmony and efficient service, and may  
4 also cooperate with the United States Department of Agriculture and its subdepartments and with  
5 other states or organizations having common agricultural problems with those of the state of  
6 Missouri.

261.095. 1. The [director of the Missouri department] **secretary** of agriculture shall  
2 have the primary responsibility for foreign market development for agricultural products.

3 2. Within the limit of funds specifically appropriated for that purpose, the [director]  
4 **secretary** is authorized to establish and maintain offices in foreign countries for the purpose of  
5 promoting international markets for Missouri agricultural products. Such offices operated by the  
6 [department] **office** of agriculture may be disestablished by the [director] **secretary** as he deems  
7 appropriate.

8 3. The [director] **secretary** may place an agricultural marketing specialist in state offices  
9 operated in foreign countries by other state agencies.

261.100. Within the limit of funds specifically appropriated for that purpose, the  
2 [director of the department] **secretary** of agriculture may operate an animal export inspection  
3 facility meeting the requirements of the United States Department of Agriculture for animal  
4 inspection prior to export shipments.

261.125. Records and documents submitted to the [Missouri department] **state office**  
2 of agriculture or Missouri agriculture and small business development authority relating to  
3 financial investments in a business, or sales projections or other business plan information that  
4 may endanger the competitiveness of a business, except for the amount and recipient of any loan  
5 or grant from a program administered by the authority, shall be deemed a "closed record" as such  
6 term is defined in section 610.010.

261.200. 1. Any laws to the contrary notwithstanding, there is hereby created in the state treasury the "Agriculture Protection Fund", which shall consist of any moneys or fees appropriated to the fund as well as all fees assessed and collected by the [department] **office** of agriculture which are not otherwise placed in the state treasury to the credit of the particular purpose or fund for which the fees are collected. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements of the fund. Upon appropriation by the general assembly, money in the fund shall be used solely by the [department] **office** of agriculture for the purposes of carrying out its functions and responsibilities, and no money shall be paid out of the fund created under this section except by appropriation of the general assembly for the administration of the program from which the fee was collected; except that, the provisions of this section shall not apply to any moneys credited to the fund under subdivision (2) of subsection 1 of section 311.550.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

261.230. The [director of the department] **secretary** of agriculture shall, for the use of the agriculture business development division of the [department] **office** of agriculture, develop and implement rules and regulations by product category for all Missouri agricultural products included in the AgriMissouri marketing program.

261.235. 1. There is hereby created in the state treasury for the use of the agriculture business development division of the state [department] **office** of agriculture a fund to be known as "The AgriMissouri Fund". All moneys received by the state [department] **office** of agriculture for Missouri agricultural products marketing development from any source, including trademark fees, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the state [department] **office** of agriculture, be expended by the agriculture business development division of the state [department] **office** of agriculture for promotion of Missouri agricultural products under the AgriMissouri program. The unexpended balance in the AgriMissouri fund at the end of the biennium shall not be transferred to the general revenue fund of the state treasury and accordingly shall be exempt from the provisions of section 33.080 relating to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

2. There is hereby created within the [department] **office** of agriculture the "AgriMissouri Advisory Commission for Marketing Missouri Agricultural Products". The commission shall establish guidelines, and make recommendations to the [director] **secretary** of agriculture, for

16 the use of funds appropriated by the general assembly for the agriculture business development  
17 division of the [department] **office** of agriculture, and for all funds collected or appropriated to  
18 the AgriMissouri fund created pursuant to subsection 1 of this section. The guidelines shall  
19 focus on the promotion of the AgriMissouri trademark associated with Missouri agricultural  
20 products that have been approved by the general assembly, and shall advance the following  
21 objectives:

22 (1) Increasing the impact and fostering the effectiveness of local efforts to promote  
23 Missouri agricultural products;

24 (2) Enabling and encouraging expanded advertising efforts for Missouri agricultural  
25 products;

26 (3) Encouraging effective, high-quality advertising projects, innovative marketing  
27 strategies, and the coordination of local, regional and statewide marketing efforts;

28 (4) Providing training and technical assistance to cooperative-marketing partners of  
29 Missouri agricultural products.

30 3. The commission may establish a fee structure for sellers electing to use the  
31 AgriMissouri trademark associated with Missouri agricultural products. Under the fee structure:

32 (1) A seller having gross annual sales greater than two million dollars per fiscal year of  
33 Missouri agricultural products which constitute the final product of a series of processes or  
34 activities shall remit to the agriculture business development division of the [department] **office**  
35 of agriculture, at such times and in such manner as may be prescribed, a trademark fee of  
36 one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products  
37 carrying the AgriMissouri trademark; and

38 (2) All sellers having gross annual sales less than or equal to two million dollars per  
39 fiscal year of Missouri agricultural products which constitute the final product of a series of  
40 processes or activities shall, after three years of selling Missouri agricultural products carrying  
41 the AgriMissouri trademark, remit to the agriculture business development division of the  
42 [department] **office** of agriculture, at such times and in such manner as may be prescribed, a  
43 trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale  
44 sales of products carrying the AgriMissouri trademark. All trademark fees shall be deposited to  
45 the credit of the AgriMissouri fund, created pursuant to this section.

46 4. The agriculture business development division of the [department] **office** of  
47 agriculture is authorized to promulgate rules consistent with the guidelines and fee structure  
48 established by the commission. No rule or portion of a rule shall become effective unless it has  
49 been promulgated pursuant to the provisions of chapter 536.

50 5. The commission shall consist of nine members appointed by the governor with the  
51 advice and consent of the senate. One member shall be the director of the agriculture business



52 development division of the [department] **office** of agriculture, or his or her representative. At  
53 least one member shall be a specialist in advertising; at least one member shall be a specialist  
54 in agribusiness; at least one member shall be a specialist in the retail grocery business; at least  
55 one member shall be a specialist in communications; at least one member shall be a specialist  
56 in product distribution; at least one member shall be a family farmer with expertise in livestock  
57 farming; at least one member shall be a family farmer with expertise in grain farming and at least  
58 one member shall be a family farmer with expertise in organic farming. Members shall serve  
59 for four-year terms, except in the first appointments three members shall be appointed for terms  
60 of four years, three members shall be appointed for terms of three years and three members shall  
61 be appointed for terms of two years each. Any member appointed to fill a vacancy of an  
62 unexpired term shall be appointed for the remainder of the term of the member causing the  
63 vacancy. The governor shall appoint a chairperson of the commission, subject to ratification by  
64 the commission.

65 6. Commission members shall receive no compensation but shall be reimbursed for  
66 actual and necessary expenses incurred in the performance of their official duties on the  
67 commission. The division of agriculture business development of the [department] **office** of  
68 agriculture shall provide all necessary staff and support services as required by the commission  
69 to hold commission meetings, to maintain records of official acts and to conduct all other  
70 business of the commission. The commission shall meet quarterly and at any such time that it  
71 deems necessary. Meetings may be called by the chairperson or by a petition signed by a  
72 majority of the members of the commission. Ten days' notice shall be given in writing to such  
73 members prior to the meeting date. A simple majority of the members of the commission shall  
74 be present to constitute a quorum. Proxy voting shall not be permitted.

261.239. The agriculture business development division of the [department] **office** of  
2 agriculture shall create an internet website for the purpose of fostering the marketing of Missouri  
3 agricultural products over the internet.  
4

2 [261.010. There is created a "Department of Agriculture", the main office  
3 of which shall be in Jefferson City in quarters provided by the division of  
4 facilities management, design and construction. The governor, by and with the  
5 advice and consent of the senate, shall appoint a director of the department of  
6 agriculture who shall be a practical farmer, well versed in agricultural science and  
7 who shall serve at the pleasure of the governor. The director shall be in charge  
8 of the department of agriculture.]

Section B. This act shall only become effective upon passage of a constitutional  
2 amendment designating a state office of agriculture and a secretary of agriculture.

✓