HB12-1322

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL CONDITIONAL FISCAL IMPACT

Drafting Number: LLS 12-0721
Prime Sponsor(s): Rep. Sonnenberg
Sen. Renfroe; Scheffel

Date: April 10, 2012
Bill Status: House Education
Fiscal Analyst: Kirk Mlinek (303-866-4782)

TITLE: CONCERNING THE DISPOSITION OF FEDERAL AGRICULTURAL PUBLIC LANDS.

Fiscal Impact Summary *	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
State Revenue Cash Funds Internal Improvements Trust Fund		up to $1.1B		
State Transfers Transfer from Internal Improvements Trust Fund to the State Education Fund to the Colorado Water Conservation Board			up to $11.4M up to $11.4M	
State Expenditures Cash Funds State Education Fund Colorado Water Conservation Board				up to $19.0M up to $11.4M
FTE Position Change				
Effective Date: August 8, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and no referendum petition is filed.				
Appropriation Summary for FY 2012-2013: None required.				
Local Government Impact: See Local Government section.				

* ***The impacts shown in this table are conditional upon the federal government selling all agricultural public lands in Colorado, and all or a portion of those lands being subject to property taxes.***

Summary of Legislation

The bill requires the United States government to sell agricultural public lands on or before December 31, 2014, and provides that any agricultural public lands not sold as of that date will no longer be exempt from property tax. The bill requires the United States to pay the state 5 percent of the net proceeds of any land sold. Proceeds will be deposited in the Internal Improvements Trust Fund (trust fund), created in the bill. The bill requires the State Treasurer to credit 50 percent of the interest and income earned on the trust fund to the State Education Fund at the end of each fiscal year. The General Assembly may annually appropriate the remaining 50 percent for water storage projects recommended by the Colorado Water Conservation Board.

The bill defines "agricultural public lands" to mean any lands within the state that are, or could be, used for agriculture except those privately held, or those held in trust by the state, a political subdivision, or an independent entity, including all land owned by the Colorado State Land Board. Other specific exemptions include national parks, land used for military purposes, and land belonging to an Indian, Indian tribe, or community that is held in trust by the United States.

Technical note. Both legal and practical questions arise regarding the state's ability to require that the federal government sell agricultural public lands, pay a portion of the proceeds to the state, and pay property taxes on any such land not sold by a specified date. As such, the bill is assessed as having a conditional fiscal impact.

Background

Colorado is comprised of 104,094 square miles, or 66.1 million acres. Of that amount, 24.9 million acres are owned and managed by the federal government or are dedicated to two Indian tribes. Federal agencies with land in Colorado include the Department of the Interior, Bureau of Land Management; the Department of Defense; the National Park Service, the United States Forest Service, the United States Fish and Wildlife Service, the Bureau of Reclamation, and the Bureau of Indian Affairs. Six Colorado counties have more than 1.0 million acres of federal land within their boundaries; four counties have no federal lands.

National Park Service lands, land used for military purposes, and lands belonging to an Indian or Indian tribe, or that are held in trust by the United States for the Indian community, are exempt from the provisions of the bill. These categories total 1.9 million acres, meaning that the bill applies to the remaining 23 million acres of federally owned land.

State Revenue

Conditional on federal action to sell public agricultural lands and pay a portion of the proceeds to the state, as required by the bill, revenue to the state will increase as discussed below.

Proceeds from land sales. Five percent of the revenue collected from the sale of federal lands, net of expenses associated with the sale, are required to be deposited in the Internal Improvements Trust Fund. Assuming an average value of $1,100 per acre (average value of all agricultural lands in Colorado as reported by the USDA, National Agriculture Statistics Service, August 2011) and expenses of 10 percent of gross proceeds, the state stands to gain $1.139 billion for the corpus of the trust. The fiscal note assumes that up to this amount will be received in FY 2013-14, and interest earnings will begin July 1, 2014. Assuming a return of 2 percent, the trust fund will yield approximately $22.8 million per year in interest earnings, half of which is to be credited to the School Education Fund, and half of which may be appropriated by the General Assembly for water storage projects recommended by the Colorado Water Conservation Board.

Public vs. private ownership. The move from public to private ownership of the agricultural land in question could affect state revenue to the extent that income-producing activities on the land are affected. This revenue could take the form of income taxes or severance taxes. In some cases, activities and revenue will increase; in others it will decrease. Overall impact on state revenue is unknown. Please refer to the Local Government Impact section for a discussion of the bill's property taxation implications.

State Transfers

The bill requires the State Treasurer to credit 50 percent of interest and income earnings on the trust fund to the State Education Fund at the end of each fiscal year. The fiscal note assumes that sale proceeds will be deposited by June 30, 2014, that interest and income earnings of $22.8 million will accrue, and that half of that amount will be transferred to the State Education Fund on June 30, 2015. The remaining half could be appropriated to the Colorado Water Conservation Board during the 2015 legislative session for use in FY 2015-16.

State Expenditures

The bill potentially makes money available for expenditure and could reduce the need for General Fund for the School Finance Act beginning in FY 2015-16. The State Education Fund and the Water Conservation Board stand to receive, and are expected to spend, as much as $11.4 million each per year under a scenario in which all federal lands that are subject to the bill are sold.

School finance. An increase in property tax revenue increases the local share of funding under the school finance act. Given the current operation of school finance funding, this fiscal note assumes that overall spending on school finance will increase by the increase in the local share, estimated at $7.6 million per year under the assumption that federal lands will be sold and, therefore, be subject to property taxation. The fiscal note assumes that state funding for school finance will not be reduced because of the higher local contributions.

Under the bill, the federal land in question is either sold and potentially goes on the local tax rolls, or becomes subject to property taxation on January 1, 2015. If it is sold earlier, then property taxes will be collected sooner on those parcels. Property made taxable in 2015 generates tax revenue for school finance in FY 2015-16.

Enforceability. It is assumed that litigation may be necessary to enforce the provisions of the bill, requiring legal services on the part of the Attorney General's office. No legal costs have been estimated at this time.

Local Government Impact

The bill affects local governments in several ways, including an increase in property tax collections, impacts to severance tax receipts, and the loss of revenue from the federal Payments in Lieu of Taxes (PILT) program. These issues are discussed below.

Revenue from property taxation. Any unsold lands and all or a portion of the sold lands will be subject to property taxation effective January 1, 2015. The actual value of agricultural land, exclusive of improvements, is based on the earning or productive capacity of the land, capitalized at the statutory rate of 13 percent. For the lands subject to the bill, the fiscal note assumes a taxable value of $54 per acre (the weighted average value per acre of agricultural lands in the state), which yields approximately $1.24 billion in total actual value. For property tax purposes, land used for agriculture is assessed at 29 percent of actual value. The assessed value for the lands that are subject to sale totals $360.2 million. The application of a statewide average mill levy of 73 mills means that $26.3 million in property taxes statewide will be collected if all federal lands become subject to property taxation. Taxes assessed in calendar year 2015 are payable in the first six months of calendar year 2016.

School district impact. Starting in FY 2015-16, school districts would collect an estimated $7.6 million per year for school purposes, assuming an average school finance mill levy of 21. The fiscal note assumes this would increase total school finance funding by a similar amount and not reduce the state's contribution. To the degree that school districts have passed a mill levy override for a specific dollar amount, other taxpayers may see a reduction in property taxes because of the higher assessed value in the district. Alternatively, if school districts have passed a specific mill levy, property tax revenue from overrides will increase under the bill.

PILT. The federal Payments in Lieu of Taxes program, created in 1976, makes payments to local governments that are intended to offset the loss of tax revenue to local governments caused by the presence of tax-exempt federal lands within their taxing jurisdictions. For 2011, Colorado received PILT payments totaling $27.0 million. This revenue, lost under the bill, will be offset by those same parcels being subject to property taxes under the bill.

Departments Contacted

Education	Property Tax	Treasury	Law
Local Affairs	Governor	Natural Resources	Counties
Municipalities	Special Districts		