

**ONE HUNDRED SEVENTH LEGISLATURE - SECOND SESSION - 2022**  
**COMMITTEE STATEMENT**  
**LB805**

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**Hearing Date:** Tuesday January 18, 2022  
**Committee On:** Agriculture  
**Introducer:** Hughes  
**One Liner:** Change provisions relating to prioritization of applications and intent to appropriate funds under the Noxious Weed Control Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

<b>Aye:</b>	5	Senators Brandt, Brewer, Gragert, Halloran, Hansen, B.
<b>Nay:</b>	1	Senator Lathrop
<b>Absent:</b>		
<b>Present Not Voting:</b>	1	Senator Cavanaugh, J.

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**Oral Testimony:**

**Proponents:**

Senator Dan Hughes  
Mike Reed  
Todd Boller  
Jon Cannon  
Dean Edson  
Andrew Dunkley

**Representing:**

Introducer  
Nebraska Weed Control Association  
Nebraska Weed Control Association  
Nebraska Association of County Officials  
Nebraska Association of Resources Districts  
Nebraska Farm Bureau

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

Makes a clarification to area in which vegetation management activities within riparian areas of the state that are funded through a grant program may be applied and changes legislative intent regarding the amount of general funds to be appropriated to the grant program.

Sec. 1: Amends Section 2-958.02 which creates the Noxious Weed and Invasive Plant Species Assistance program prescribing criteria applied to determine eligibility for, and to prioritize recipients of, grants awarded under the program. Subsection (4) creates a subcategory of eligible grant awards that ties those funds to projects advancing objectives and priorities of the Riparian Vegetation Management Task Force. Currently, subsection (4) limits eligible management activities to those that occur within a streambank or up to 100 ft. beyond the banks of a channel of a stream, and states legislative intent to appropriate \$1 million general funds annually for projects eligible under this subsection.

LB 805 would expand eligibility to management projects anywhere within the floodplain of a stream. The bill also increases

the intended appropriation to \$3 million annually.

The bill also amends a criteria under (3)(g) for prioritizing projects eligible for grant awards from the Fund to include the extent to which the project will reduce or prevent populations of designated noxious weeds or invasive plant species.

Sec. 2: Repealer

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**Explanation of amendments:**

The committee amendment (AM1976) strikes the original sections and becomes the bill. The effect of the amendment is to add the provisions of LB 712 and LB 802 as introduced.

The original substantive provision of LB 805 is retained as Section 1 of the amendment. Section 14 of the amendment is a revised repealer section to incorporate new sections added by the amendment. The new provisions of LB 805 added by the amendment are summarized below.

Sections 2-7 Add provisions of LB 802:

Sections 2-7 revises powers and duties of the Wheat Board to expressly authorize additional avenues for commercializing new wheat varieties developed with checkoff funds and clarifies points in commerce when the checkoff is assessed and collected.

Sec. 2: Amends Section 2-2303 which defines terms utilized in the Nebraska Wheat Resources Act.

-- The term "commercial channels" is revised to exclude sales of wheat that will be resold as seed.

-- The term "first purchaser" is revised to exclude entities that acquire wheat through mortgage, pledge, lien or similar claim.

A harmonizing revision to the term "sale" is made to exclude the establishment of a mortgage or pledge of wheat.

Sec. 3: Amends Section 2-2309 which designates the Wheat Board as the agency to carry out market development programs for wheat and assigns authorities to the Board for that purpose. The revisions would insert express authority for the Board to acquire intellectual property in wheat varieties and to carry out programs relating to the commercialization/dissemination of Board owned wheat varieties. Subsection (5) is revised to enumerate and expand the purposes for which the Board may enter into grant and contractual relationships with public and private entities to include development of new wheat varieties, securing intellectual property rights, and production of wheat for sale.

Sec. 4: Amends Section 2-2311 which imposes an assessment of wheat sold through commercial channels. This section assigns a duty to the first purchaser to collect the assessment at the time of settlement. LB 802 revises the section for clarity and to specify that the levy of the assessment is against wheat growers.

Sec. 5: Amends Section 2-2312 to provide that the assessment is not deducted from loan proceeds of wheat placed under federal price support loan at the time the loan is made.

Sec. 6: Amends Section 2-2315 which prescribes procedures for purchasers of wheat to collect and remit the checkoff assessment. The bill makes a series of statutory clarifications and harmonizing revisions to specify that the section applies to "first" purchasers, modifies recordkeeping requirements, and information to be entered on forms for purpose of reporting and remitting assessment collections.

Sec. 7: Amends Section 2-2318 which requires that the Board to utilize the Department of Agriculture, the University of Nebraska or other appropriate third parties to conduct research and carry out programs of development. Revisions to this section more clearly authorize the Board to cooperate and contract with public and private entities to carry out research and promotional activities. New subsection (2) expressly clarifies that the Board is not constrained in acquiring intellectual

property in, or commercial development of, wheat varieties including the production and sale of wheat without contracting with third parties.

Motion to include LB 802 as part of AM1976 to LB 805

Vote results: 6-0-1

Voting Aye: Brandt, Brewer, Cavanaugh, J., Gragert, Halloran, Hansen, B.

Voting Nay: None

Present Not Voting: Lathrop

Testifiers on LB 802:

Proponents:

Senator Dan Hughes - Introducer

Chris Cullan - Self

Andrew Dunkley - Nebraska Farm Bureau

Opponents: None

Neutral: None

Sections 8-13 Add provisions of LB 712:

LB 712 makes a series of revisions to the Black-Tailed Prairie Dog Management Act to address or remove constitutionally questionable provisions of the current law.

Sec. 8: Amends Section 23-3803 which prescribes elements of country management plans. The bill inserts a requirement that a plan include a method for landowners to waive objection to incursion of a prairie dog colony due to expansion from adjacent property.

Sec. 9: Amends Section 23-3804 which states a duty of an owner of land where a prairie dog colony exists to manage the colony to prevent expansion to neighboring property. Currently, this duty arises if the neighboring landowner objects to the expansion. The revision asserts this is an affirmative duty unless the neighboring landowner waives objection. The revision is intended to avoid a potential delegation defect as currently written.

Sec. 10: Amends Section 23-3805 which assigns authorities of county boards of counties that have adopted a management plan. The bill inserts express authority that a county may assign performance of activities necessary to carry out the plan, including investigation of complaints.

Sec. 11: Makes the following revisions to Section 23-3806:

-- removes infraction remedy as an enforcement mechanism in the event a landowner fails to meet obligations to manage a prairie dog colony present on the property, striking the individual notice and associated due process provisions associated with that remedy. The revisions would retain only that counties may cause remedial action to occur and the liability of the landowner for the costs of such action.

-- removes a statement construing that a county's failure to publish general notice does not relieve a landowner's duty to manage a prairie dog colony.

-- adds a requirement that an individual notice be delivered by certified mail.

-- removes procedures for collecting unpaid prairie dog colony management expenses incurred by the county as a special assessment.

Sec. 12: Amends Section 23-3808 which states a right of entry for a county to enter property to perform prairie dog colony abatement actions. The revision removes a limitation on liability of the county to torts of trespass or damages provided reasonable care is exercised. Note: any such liability would defer to the Political Subdivisions Tort Claims Act.

Sec. 13: Severability clause

Motion to include LB 712 as part of AM1976 to LB 805:

Vote results: 6-0-1

Voting Aye: Brandt, Brewer, Gragert, Halloran, Hansen, B., Lathrop

Voting Nay: None

Present, Not Voting: Cavanaugh, J.

Testifiers on LB 712:

Proponents:

Senator Dan Hughes - Introducer

Andrew Dunkley - Nebraska Farm Bureau

Opponents: None

Neutral:

John Cannon - Nebraska Association of County Officials

Kimberly Stuhr - Nebraska Wildlife Federation and Friends of the Niobrara

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Steve Halloran, Chairperson