

E AND R AMENDMENTS TO LB 473

Introduced by Larson, 40, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Sections 1 to 10 of this act shall be known  
4 and may be cited as the Black-Tailed Prairie Dog Management Act.

5           Sec. 2. For purposes of the Black-Tailed Prairie Dog  
6 Management Act:

7           (1) Colony means the series of burrows and tunnels  
8 created by the black-tailed prairie dog where black-tailed prairie  
9 dogs live;

10          (2) County board means the county board of commissioners  
11 or supervisors of a county that has adopted the act;

12          (3) Managed colony means a colony that is confined to  
13 land owned by one person; and

14          (4) Person means any individual, partnership, firm,  
15 limited liability company, corporation, company, society, or  
16 association, the state or any department, agency, or political  
17 subdivision thereof, or any other public or private entity.

18          Sec. 3. (1) A county may adopt by resolution and carry  
19 out a coordinated program for the management of black-tailed  
20 prairie dogs on property within the county consistent with the  
21 Black-Tailed Prairie Dog Management Act. When a county adopts such  
22 a resolution, the county shall assume the authority and duties  
23 provided in the act and the act shall be applicable to persons

1 owning or controlling property within the county.

2 (2) A black-tailed prairie dog management plan shall  
3 include a finding by the county board of adverse impacts of  
4 unmanaged colonies within the county and the necessity to exercise  
5 the authority made available under the Black-Tailed Prairie Dog  
6 Management Act. Such management plan shall include a listing of  
7 the methods for management of colonies to be used for purposes  
8 which are consistent with the act. Such management plan shall not  
9 conflict with any state management plan for black-tailed prairie  
10 dogs or any rules or regulations adopted and promulgated pursuant  
11 to the Nongame and Endangered Species Conservation Act and shall  
12 not conflict with any state or federal recovery plan for endangered  
13 or threatened species.

14 (3) A county may cooperate and coordinate with the  
15 Animal and Plant Health Inspection Service of the United States  
16 Department of Agriculture, the Game and Parks Commission, the  
17 United States Fish and Wildlife Service, and other local, state,  
18 and national agencies and organizations, public or private, to  
19 prepare a coordinated program for the control and management  
20 of black-tailed prairie dogs and to carry out its duties and  
21 responsibilities under the Black-Tailed Prairie Dog Management Act.

22 (4) A county may by resolution discontinue a coordinated  
23 program for the management of black-tailed prairie dogs. If such a  
24 program is discontinued, any unpaid assessments against landowners  
25 for costs of black-tailed prairie dog management shall continue to  
26 be collected pursuant to the Black-Tailed Prairie Dog Management  
27 Act.

1           Sec. 4. Each person who owns or controls property within  
2 a county that has adopted a coordinated program for the management  
3 of black-tailed prairie dogs under section 3 of this act shall  
4 effectively manage colonies present upon his, her, or its property  
5 to prevent the expansion of colonies to adjacent property if the  
6 owner of the adjacent property objects to such expansion.

7           Sec. 5. A county board of a county that has adopted a  
8 coordinated program for the management of black-tailed prairie dogs  
9 under section 3 of this act may:

10           (1) Employ personnel and expend funds for the purchase  
11 of materials, machinery, and equipment to carry out its duties and  
12 responsibilities under the Black-Tailed Prairie Dog Management Act;

13           (2) Issue general and individual notices as provided in  
14 section 6 of this act for the management of colonies; and

15           (3) Examine property within the county for the purpose of  
16 determining the location of colonies.

17           Sec. 6. (1)(a) Notices for management of colonies shall  
18 consist of two kinds: General notice and individual notices, which  
19 notices shall be on a form prescribed by this section. Failure to  
20 publish general notice or to serve individual notices as provided  
21 in this section shall not relieve any person from the necessity of  
22 full compliance with the Black-Tailed Prairie Dog Management Act.

23           (b) General notice shall be published by the county board  
24 of each county that has adopted a coordinated program for the  
25 management of black-tailed prairie dogs under section 3 of this act  
26 in one or more newspapers of general circulation in the county on  
27 or before May 1 of each year or at such other times as the county

1 board may determine.

2 (c) Whenever any county board of a county that has  
3 adopted a coordinated program for the management of black-tailed  
4 prairie dogs under section 3 of this act has reason to believe,  
5 based upon information or through its own investigation, that a  
6 colony, or any portion of a colony, has expanded onto adjacent  
7 property and the owner of the adjacent property objects to such  
8 expansion and the county board determines that it is necessary  
9 to secure more prompt or definite management of a colony than is  
10 accomplished by the general published notice, it shall cause to be  
11 served individual notice, upon the owner of record of the property  
12 upon which the colony is located at his or her last-known address,  
13 of recommended methods of when and how black-tailed prairie dogs  
14 are to be managed.

15 (d) The county board shall use one or both of the  
16 following forms for all individual notices:

17 (i) ..... County Board

18 OFFICIAL NOTICE

19 Information received by the county board  
20 indicates the existence of an unmanaged black-tailed  
21 prairie dog colony on property owned by you at:  
22 ..... The method  
23 of management recommended by the county board is as follows:  
24 ..... Other  
25 appropriate management methods are acceptable if approved by the  
26 county board.

27 State law specifies a duty of each person who owns or

1 controls property within a county that has adopted a coordinated  
2 program for the management of black-tailed prairie dogs under  
3 section 3 of this act to manage black-tailed prairie dog colonies  
4 present upon his or her property to prevent the expansion of  
5 colonies to adjacent property if the owner of the adjacent property  
6 objects to such expansion. You must provide notice and evidence  
7 to the county board within sixty days after the date specified at  
8 the bottom of this notice that appropriate management as specified  
9 in this notice, or alternative management that is approved by  
10 the board, has been initiated. If services for the management of  
11 black-tailed prairie dogs are not available within the sixty-day  
12 period specified in this notice, you may satisfy this notice by  
13 providing evidence that you have arranged for management to occur  
14 when available. If such notice and evidence are not received by  
15 the county board within sixty days after the date specified at the  
16 bottom of this notice, the county board or its agent may enter upon  
17 your property for the purpose of taking the appropriate management  
18 measures. Costs for the management activities performed by the  
19 county board shall be at the expense of the owner of the property  
20 and shall become a lien on the property as a special assessment  
21 levied on the date of control.

22 If the county board receives a written request from you  
23 within fifteen days after the date specified at the bottom of this  
24 notice, you are entitled to a hearing before the county board to  
25 challenge this notice.

26 County Board

27 Dated ..... ; or

1                   (ii) ..... County Board

2                   OFFICIAL NOTICE

3                   Information received by the county board  
4 indicates the presence of an unmanaged black-tailed  
5 prairie dog colony on property owned by you at:  
6 ..... . The method  
7 of management recommended by the county board is as follows:  
8 ..... . Other  
9 appropriate management methods are acceptable if approved by the  
10 county board.

11                   State law specifies a duty of each person who owns or  
12 controls property within a county that has adopted a coordinated  
13 program for the management of black-tailed prairie dogs under  
14 section 3 of this act to manage black-tailed prairie dog colonies  
15 present upon his or her property to prevent the expansion of  
16 colonies to adjacent property if the owner of the adjacent property  
17 objects to such expansion. You must provide notice and evidence  
18 to the county board within sixty days after the date specified at  
19 the bottom of this notice that appropriate management as specified  
20 in this notice, or alternative management that is approved by  
21 the board, has been initiated. If services for the management of  
22 black-tailed prairie dogs are not available within the sixty-day  
23 period specified in this notice, you may satisfy this notice by  
24 providing evidence that you have arranged for management to occur  
25 when available. If such notice and evidence are not received by  
26 the county board within sixty days after the date specified at the  
27 bottom of this notice you may, upon conviction, be subject to a

1 fine of \$100.00 per day for each day of noncompliance beginning on  
2 ....., up to a maximum of fifteen days of noncompliance (maximum  
3 \$1,500).

4 If the county board receives a written request from you  
5 within fifteen days after the date specified at the bottom of this  
6 notice, you are entitled to a hearing before the county board to  
7 challenge this notice.

8 County Board

9 Dated .....

10 (2) Upon the written request of any landowner served with  
11 an individual notice pursuant to subsection (1) of this section  
12 received within fifteen days after the date specified by such  
13 notice, the county board shall hold an informal public hearing to  
14 allow such landowner an opportunity to address the county board's  
15 notice.

16 (3) If a landowner who has received a notice pursuant to  
17 subsection (1) of this section fails to comply with the notice, the  
18 county board shall:

19 (a) If, upon expiration of the sixty-day period specified  
20 on the notice required by subdivision (1)(d)(i) of this section,  
21 the landowner has not complied with the notice and has not  
22 requested a hearing pursuant to subsection (2) of this section,  
23 the county board may cause proper management methods to be used on  
24 such property and shall advise the record landowner of the cost  
25 incurred in connection with such operation. The cost of any such  
26 management shall be at the expense of the landowner. In addition,  
27 the county board shall immediately cause notice to be filed of

1 possible unpaid black-tailed prairie dog management assessments  
2 against the property upon which the management measures were used  
3 in the register of deeds office in the county where the property is  
4 located. If unpaid for two months, the county board shall certify  
5 to the county treasurer the amount of such expense and such expense  
6 shall become a lien on the property upon which the management  
7 measures were taken as a special assessment levied on the date of  
8 management. The county treasurer shall add such expense to and it  
9 shall become and form a part of the taxes upon such land and shall  
10 bear interest at the same rate as delinquent taxes; or

11 (b) If, upon the expiration of the sixty-day period  
12 specified on the notice required by subdivision (1)(d)(ii) of this  
13 section, the landowner has not complied with the notice and has  
14 not requested a hearing pursuant to subsection (2) of this section,  
15 the county board shall notify the county attorney who shall proceed  
16 against such landowner as prescribed in this subdivision. A person  
17 who is responsible for an unmanaged colony shall, upon conviction,  
18 be guilty of an infraction pursuant to sections 29-431 to 29-438,  
19 except that the penalty shall be a fine of one hundred dollars per  
20 day for each day of violation, up to a total of one thousand five  
21 hundred dollars for fifteen days of noncompliance.

22 (4) This section shall not be construed to limit  
23 satisfaction of the obligation imposed by this section in whole  
24 or in part by tax foreclosure proceedings. The expense may be  
25 collected by suit instituted for that purpose as a debt due the  
26 county or by any other or additional remedy otherwise available.  
27 Amounts collected under this section shall be deposited to the



1 black-tailed prairie dog management fund of the county board if  
2 such fund has been created by the county board or, if no such fund  
3 has been created, then to the county general fund.

4       Sec. 7. If any person is dissatisfied with the amount  
5 of any costs charged against him or her under the Black-Tailed  
6 Prairie Dog Management Act, he or she may, within fifteen days  
7 after being advised of the amount of the charge, file a written  
8 protest with the county board. The county board shall hold a  
9 hearing to determine whether the charges were appropriate, taking  
10 into consideration whether the management measures were conducted  
11 in a timely fashion. Following the hearing, the county board shall  
12 have the power to adjust or affirm such charge.

13       Sec. 8. The county board of a county that has adopted  
14 a coordinated program for the management of black-tailed prairie  
15 dogs under section 3 of this act, or anyone authorized by the  
16 county board, may enter upon property in the county for purposes  
17 of performing the duties and exercising the powers under the  
18 Black-Tailed Prairie Dog Management Act without being subject  
19 to any action for trespass or damages, including damages for  
20 destruction of growing crops, if reasonable care is exercised and  
21 forty-eight hours' written advance notice of entrance is provided  
22 to the property owner or occupant.

23       Sec. 9. A black-tailed prairie dog management fund may be  
24 established by a county, which fund shall be available for expenses  
25 authorized to be paid from such fund, including necessary expenses  
26 of the county board in carrying out its duties and responsibilities  
27 under the Black-Tailed Prairie Dog Management Act.

1           Sec. 10. The cost of managing colonies on all land  
2 owned or controlled by a state department, agency, commission,  
3 or board or a political subdivision shall be paid by the state  
4 department, agency, commission, or board in control thereof or the  
5 political subdivision out of funds appropriated to the state  
6 department, agency, commission, or board or budgeted by the  
7 political subdivision for its use.

8           Sec. 11. Section 81-2,236, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           81-2,236 The Director of Agriculture may contract and  
11 cooperate with the Animal and Plant Health Inspection Service of  
12 the United States Department of Agriculture in the management  
13 and control of (1) coyotes, bobcats, foxes, and other predatory  
14 animals listed in section 23-358 in this state that are injurious  
15 to livestock, poultry, and game animals and the public health,  
16 (2) black-tailed prairie dogs and other injurious commensal and  
17 field rodents, and (3) nuisance birds or other nuisance wildlife in  
18 accordance with organized and systematic plans of the Animal and  
19 Plant Health Inspection Service of the United States Department  
20 of Agriculture for the management and control of such animals.  
21 Supervision of the program shall be by the local representative  
22 of the Animal and Plant Health Inspection Service of the United  
23 States Department of Agriculture. Expenditure of funds appropriated  
24 by the Legislature may not be made without the approval in writing  
25 by the director. The director in cooperation with the Animal and  
26 Plant Health Inspection Service of the United States Department  
27 of Agriculture may enter into agreements with other governmental

1 agencies and with counties, associations, corporations, or  
2 individuals when such cooperation is deemed to be necessary to  
3 promote the management and control of such predatory animals,  
4 black-tailed prairie dogs and other injurious commensal and field  
5 rodents, nuisance birds, or other nuisance wildlife.

6           Sec. 12. Original section 81-2,236, Reissue Revised  
7 Statutes of Nebraska, is repealed.