

LR 314

Examine Noxious Weed Program Funding

Staff Report to the Agriculture Committee

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LEGISLATIVE RESOLUTION 314 Introduced by Erdman

PURPOSE: The purpose of this study is to examine means to fully cash fund the duties carried out by the Department of Agriculture under the Noxious Weed Control Act. The study shall seek to identify significant emerging and recurring invasive and noxious vegetation management issues, identify beneficiaries of weed control programs, and identify sources of dissemination of invasive and noxious vegetation. The study shall also seek to identify possible efficiencies in the delivery and funding of weed control programs and services.

Introduction

Nebraska has in place one of the more progressive and effective noxious weed programs in the nation. While the primary responsibility for noxious weed control lies with landowners and land managers, the Nebraska Noxious Weed Control Act deploys a regulatory framework led by county weed control authorities to both enforce and assist with this landowner responsibility. A key component of the state's modern noxious weed program as reinstated in 1989 is the state oversight exercised by the Department of Agriculture to monitor the adequacy of county weed control efforts and the technical and other assistance provided to counties through the Department's field inspector force.

When first reinstated, it was intended that the the Department's responsibilities under the Noxious Weed Control Act would be equally funded between cash and state general fund sources. In recent budget cycles, the state's general fund commitment to the noxious weed program has been repeatedly reduced and interrupted, and it is apparent that general fund support of the program may be eliminated entirely in the event fiscal conditions were to deteriorate as recent indicators of economic performance suggest may occur in the near future. This has led to interest among the weed control community to investigate means of fully cash funding the program to insulate the program from budget cycles and to assure a consistent effort over time. This report examines the funding history of the program, projects the program's cash flow absent intervention to enhance revenue streams, and discusses a variety of potential cash funding sources that the Agriculture Committee has considered from time-to-time.

While the noxious weed program remains predominantly a regulatory program, it has more recently assumed additional responsibilities and led new weed management initiatives to respond to emerging weed management challenges. An important development is the establishment of regional groupings of weed control authorities in partnership with other local, state and federal resource management entities into umbrella organizations known as Weed Management Areas. These entities have proven effective in organizing cooperative weed control projects and marshalling resources and expertise to address invasive plant infestations at a regional level. Past legislation before the Agriculture Committee has helped stimulate the formation of weed management areas. Comprehensive water management legislation enacted in 2007 was able to utilize this infrastructure to address the growing problems associated with invasive vegetation in riparian areas of the state. To the extent that vegetation management is an element of water management and other resource management objectives, this implicates a logical and expanded role of the noxious weed program. This report discusses the Weed Management Area concept and proposes an outline of a support program to consolidate and continue the infrastructure and the momentum that this approach to weed management has achieved.

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Noxious Weed Program Overview

The Nebraska Department of Agriculture's noxious weed program implements the Noxious Weed Control Act in Nebraska. The term "noxious" means to be harmful or destructive, and is the legal term used to denote a pest plant species for the purpose of regulation. When a specific pest is determined to pose a serious threat to the economic, social, or aesthetic well-being of the residents of the state, it may be declared noxious by the Director of the Nebraska Department of Agriculture. Noxious weeds compete with pasture and crops, and may reduce both crop yields and quality. While weeds are normally thought of as an agricultural nuisance, plant pests have the potential to impair the productivity, function and management of lands devoted to a variety of purposes. This not only directly affects the landowner, but erodes the tax base for all residents of the state. Some noxious weeds are poisonous or injurious to man, livestock, and wildlife. The losses resulting from noxious weed infestations can be substantial, costing millions of dollars due to lost production and in mitigation costs.

The Noxious Weed Control Act (§2-945.01 through §2-968) declares a duty of landowners and managers to eliminate noxious weeds occurring on their property. The primary function of the Act is to establish a regulatory infrastructure to enforce this landowner responsibility. Under the Act, each county is to establish a weed control authority, either as a separate entity or as a function assumed by the county board, and to employ a weed supervisor. As authorized and as frequently occurs in practice, the county weed supervisor may be a shared position serving more than one county.

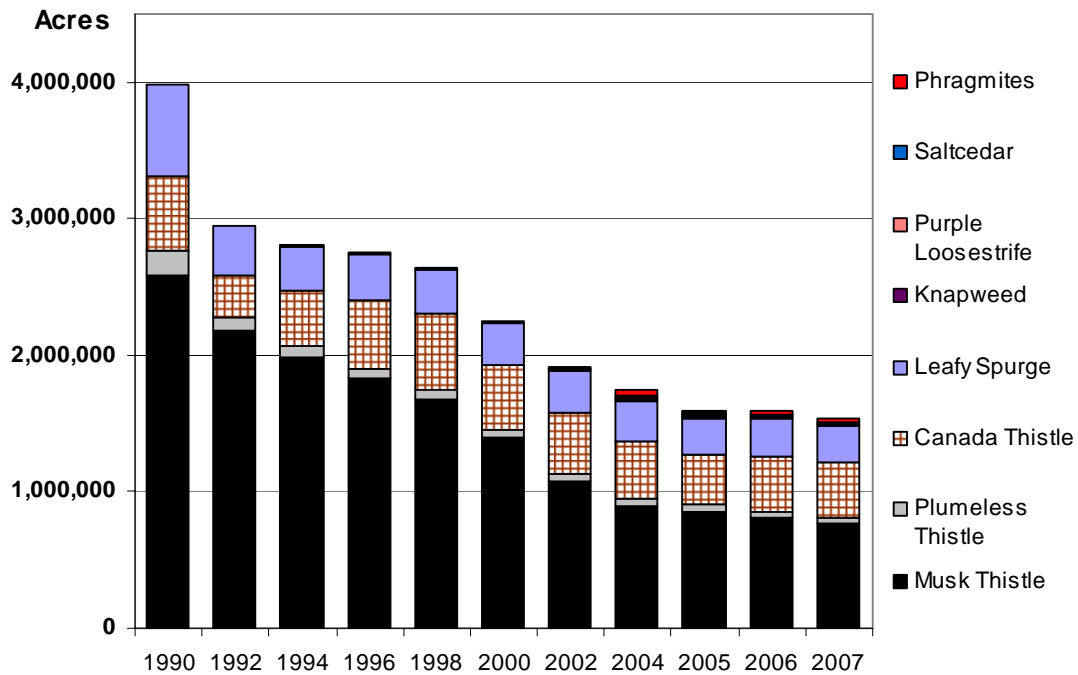
County weed control authorities are endowed under the Act with certain authorities to compel landowner compliance with the duty to control noxious weeds. The Act allows control authorities to give notice to private and public landowners and to order abatement, and to further seek imposition of civil fine for failure to address occurrences of noxious weeds. Control authorities may also exercise a right of entry on private lands to carry out control activities when the landowner has failed or refused to take control measures and obtain reimbursement for control costs, including by means of special tax assessment levied against the property if necessary.

The Noxious Weed Control Act assigns duties to the Department of Agriculture to assist, coordinate and oversee county noxious weed control programs. Briefly, the Department of Agriculture carries out the following responsibilities:

- Designates noxious weeds and appropriate control measures
- Monitors county noxious weed authority implementation of the act and intervenes when counties fail to adequately carry out program
- Convenes a Noxious Weed Control Advisory Committee to advise the Department in implementation of the Act
- Provides educational training and technical assistance in weed control
- Conducts annual surveys of noxious weed infestation levels
- Disseminate information and conduct public education campaigns
- Represents Nebraska in various associations and forums
- Perform control activities on public lands
- Administers a grant program for special weed control projects and activities
- Provides administrative support for the Riparian Vegetation Management Task Force

These primary duties and responsibilities are set out in §2-954. A key element of the modern noxious weed program is the oversight of county weed control efforts and compliance with statutory requirements assigned to counties under the Act. The Department monitors county programs through a combination of noxious weed surveys, annual reporting and documentation of county weed control activities, and annual evaluations. Subsection (4) of §2-954 provides that if the Director determines that a control authority has substantively failed to carry out its duties or authorities, or has failed to implement a county weed control program, the Department may order corrective measures be implemented by the county and bring suit to compel compliance in the event of a county’s continuing failure.

Noxious Weed Infestation Area



As the chart above suggests, the incidence of noxious weeds in the state appears to show a dramatic response to the reinstatement of an active noxious weed program. At the time of the noxious weed program’s reinstatement, severe infestations frequently caused devaluation of agricultural lands, reduced crop yields and imposed dockages, and otherwise impaired management objectives on nearly 4.5 million acres in the state. In 1990, Nebraska had only four designated noxious weeds (musk thistle, plumeless thistle, Canadian thistle, and leafy spurge). Between 1990 and 2001, noxious weed infested acres were reduced nearly in half from 3,988,732 acres (8.1% of Nebraska’s land area) to 2,072,457 acres (4.2% of land area). Since 1990, five additional species (spotted and diffuse knapweed, purple loosestrife, phragmites, and saltcedar) have been declared noxious weeds. Even with these additions, total infested area has shown continued decline to approximately 1.5 million acres in 2007.

Although this regulatory backup is available to help assure active local efforts in noxious weed control, a primary thrust of the program remains one of providing training and technical assistance to, and consultation with, local control authorities and both public and private land

managers. The Agency's budget narrative for the noxious weed program accompanying its upcoming biennial budget request reports 1650 meetings with county officials and public agency officials in fiscal year 06, although this activity has declined dramatically in the current biennium and is projected to remain at approximately 500 meeting contacts for the upcoming biennium. State staff also oversee biological and other special control projects in cooperation with the Agricultural Research Service and the Animal and Plant Health Inspection Service of USDA and other federal agencies, educational institutions and the Nebraska Weed Control Association and other local and private entities. The Department continues to maintain a leading role in educational efforts. According to the Department's FY09-10 – FY10-11 budget narrative, the Department will continue distributing over 25,000 brochures on the topic of weed control, and continue outreach activities to an annual audience of 5000 persons annually.

As discussed below, facilitated in part through the enactment of LB 869 in 2004 and LB 701 in 2007, the noxious weed program has more recently acquired additional proactive tools and resources in addition to its traditional regulatory authorities with respect to established weeds and invasive plant threats. As a result, the program has undergone a measure of reorientation toward facilitating the formation of voluntary weed management associations to address weed management problems that manifest at regional scales and toward early intervention to respond to invasive weed introductions.

Funding History – Regulatory Program

Prior to 1983, the state's noxious weed program was entirely general funded although the Department's role was primarily advisory to counties in carrying out weed control activities. As one of a series of responses to a severe budget crisis confronting the state during the early 1980s, the Legislature eliminated the funding for the program. The Department's noxious weed program remained largely dormant until its primary funding mechanisms as they exist today were reinstated with enactment of LB 49 in 1989. LB 49 was a substantial rewrite of the Department's authorities with regard to noxious weeds. It expanded the role of the Department to monitor and enforce the adequacy of county programs, to designate noxious weeds and promulgate regulations, and greatly expanded the types of assistance provided to county authorities. LB 49 provided for a combination of general and cash funds to support the Department's activities under the Act. It earmarked \$30 dollars of the annual pesticide product registration fee to the Noxious Weed Cash Fund and specified that expenditures of cash fund revenues collected by the program were to be matched by general funds. In other words, LB 49 intended that the Department's responsibilities under the Weed Control Act were to be funded equally between cash and general funds.

While the duties the Department of Agriculture assumes under the Act have historically been, and continue to be, funded through a combination of general and cash funds, general fund support for the program has proven vulnerable to state budget cycles. Beginning with a series of state budget actions occurring in 2001 and continuing through actions taken during the current budget biennium, general fund participation in costs of the program have been repeatedly reduced and interrupted. Thus, interest has grown among the weed control community in finding means to more fully cash fund the program to better insulate the program from periodic budget cycles and to insure a more stable commitment to noxious and invasive weed control. The table on the following page summarizes budgetary actions that have had the effect of forcing the Department to draw down the balance in the Noxious Weed Cash Fund and that have otherwise altered the funding mix supporting the program.

Budget Actions Affecting Core Noxious Weed Program Funding

Bill / Year	Comment	Resulting Funding Mix
LB541 / 2001	Amended §2-958 to change provision that general funds <u>shall</u> be appropriated to match cash revenues to <u>may</u> match. Eliminated general fund appropriation for FY 01-02 and only partially restored general fund match in FY 02-03 to about 1/4 of historic level.	FY 01/02: 100% cash FY 02-03: 88% cash / 12% Gen
LB 543 / 2001	Transferred \$50,000 from the Noxious Weed Cash Fund to the Livestock Waste Management Fund in each of FYs 01-02 and 02-03	
LB 407 / 2003	Mainline budget bill increased general fund match to approximately 1/2 of historic level but at a level that required continuing drawdown of cash fund reserve to continue program at existing level.	FYs 03-04 through FY 06-07: 75% cash / 25% gen
LB 869 / 2004	Provided for \$25,000 annual transfers from Weed Book Cash Fund each year through FY 09-10 and directed 25% of revenues from sale of Department publication "Weeds of the Great Plains" to the Noxious Weed Cash Fund for a total new cash revenue stream of \$30-35,000 annually.	Additional cash revenues enable program to continue at 25% general fund contribution without exhausting cash reserve in near term
LB 321 / 2007	Reduced the general fund appropriation for FY's 07-08 and 08-09 by \$55,000, approximately 1/2 of FY 06-07 appropriation. Department expected to absorb reduction by drawing on cash fund reserves with potential for eventual reduction of field staff and to transfer administrator salary to LB 701 appropriation	FYs 07-08 & 08-09: 85% cash / 15% gen
LB 701A / 2007	Assigned administrative facilitation of Riparian Management Task Force to Department and appropriated \$82,000 to Department of Ag to fund Task force activities and to administer \$2 million grant funding for riparian vegetation management projects	Additional activity associated with LB 701 implementation not included in Noxious Weed Cash Fund supported activity.

In addition to these actual reductions, the Department of Agriculture has indicated its intent to eliminate general fund support of its duties under the Noxious Weed Control Act to meet a modification budget¹ in 3 of the 5 most recent budget cycles and is expected to do so again in the upcoming budget cycle. While a modification budget proposal is rarely adopted in normal budget circumstances, identified general fund modifications foretell where budget

¹ A modification request is a budgeting exercise whereby agencies are asked to identify specific cuts or reductions in agency-wide expenditures and program activity, or transfer of the activity to other funding sources, if the agency were required to absorb a 5% reduction in general fund appropriations.

cuts are likely to be implemented in the event of future fiscal shortfalls or if general fund reallocations to other budget priorities are desired. It should be pointed out that proposed modification budget reductions or elimination of general fund support for certain agency functions does not necessarily indicate the agency considers such functions are not worthwhile or a low priority. Agencies may choose general fund reductions in some programs because they have the discretion to do so that does not exist for other functions, or because there may be other sources of revenue with which to carry on the activity.

2004 Amendments – Revenue Provisions:

As indicated in the table on the previous page, the Legislature made a number of significant changes to the Noxious Weed Control Act with enactment of LB 869. Among other changes discussed in greater detail below, LB 869 provided two additional cash revenue streams to enable the program to operate for a foreseeable period at a 25% general – 75% cash funded level. LB 869 eliminated a statutory duty to publish a reference book pertaining to insect pests but continued the duty for the Department to publish a “weed book,” a similar reference book for weeds. This publication, currently entitled *Weeds of the Great Plains*, is periodically edited and republished and approximately 1000 copies sold to the public each year. Proceeds from the sale of the insect and weed books had been deposited into the “Weed and Insect Book Cash Fund” where such proceeds were accumulated over a period of years until sufficient balance accrues to enable a new edition to be published. Prior to LB 869, the sales price of both the weed and insect books was limited to recover the anticipated cost for publishing the next edition.

LB 869 replaced the Weed and Insect Book Cash Fund with a new cash fund, known as the Weed Book Cash Fund, and directed that all funds in the Weed and Insect Book Cash Fund on the effective date of the bill be transferred to the new fund. Because the Department was able to secure a very favorable bid from a publisher to produce the most recent edition of the weed book, a one-time sizable surplus balance in the Weed Book Cash Fund occurred. LB 869 directed the transfer of this surplus balance to the Noxious Weed Cash Fund in five annual \$25,000 installments or until the surplus funds were exhausted. The last of these transfers is scheduled to occur under existing law on July 1, 2009. Additionally, LB 869 provides for 25% of the sale price of each weed book sold by the Department to be credited to the Noxious Weed Cash Fund and only 75% credited to the Weed Book Cash fund to defray the costs of future publications of the weed book. A requirement that the price of the weed book not exceed the cost of publication was stricken. Together, these revenue provisions have resulted in \$30 – 35,000 new cash fund revenues supporting the Department’s core noxious weed effort.

LB 701A – Riparian Vegetation Management Task Force:

As part of a response to continuing issues involving Nebraska’s stream flow commitments under the Republican River Compact as well as ongoing habitat and water management issues within the Platte River system, in 2007 the Legislature enacted LB 701 to enhance water management authorities and resources available to natural resource districts and other resource management entities. The final enacted version of the bill incorporated provisions of separate legislation authorizing a grant program administered by the Department of Agriculture for projects to address invasive vegetation and other vegetation problems within designated over appropriated and fully appropriated streams. The grant

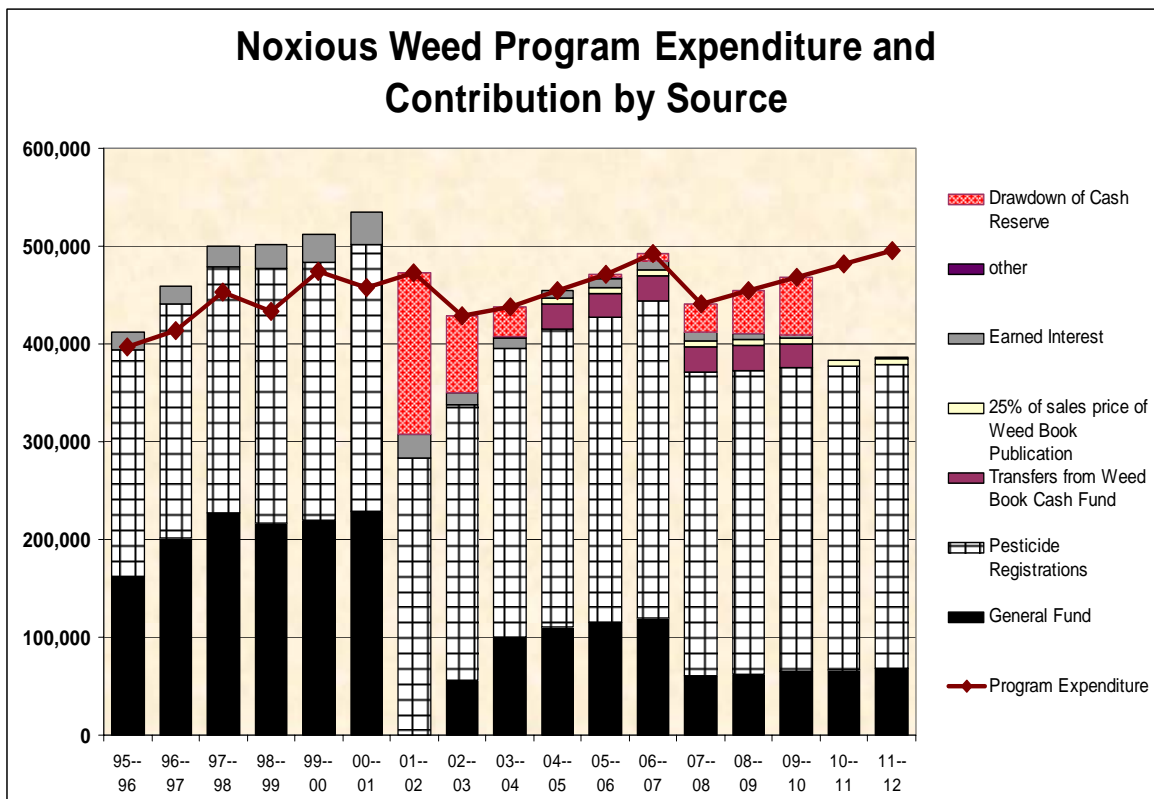
program authorized by LB 701 is located at subsection (4) of §2-958.02 as a subcategory of a program previously established by LB 869 in 2004. This existing program authorizes expenditures of funds available in the Noxious Weed and Invasive Species Assistance Fund. The authorizing language for this program stated legislative intent to appropriate \$2 million annually for subsection (4) purposes.

LB 701’s accompanying appropriations bill, LB 701A appropriated \$2 million general funds in each of fiscal years 07-08 and 08-09 to fund the riparian vegetation management grant program. These funds have been administratively assigned to a distinct subprogram within the Bureau of Plant Industry. LB 701A also included in its appropriation to the Department an additional \$82,000 annually in the current biennium for administrative responsibilities and salaries assigned to the LB 701 riparian management activities. Subsequently, the Department has assigned one program administrator FTE position to the LB 701 appropriation that had previously been funded from the general and cash resources supporting the Department’s underlying noxious weed program. As indicated in the previous table, this reassignment has, over the past two years, enabled the Department to maintain its field inspector force and continue other noxious weed efforts despite a reduction in general fund appropriations over the current biennium.

Historical Cash Flow:

The following graphic summarizes the funding history of the noxious weed program discussed to this point.

FY 1995-05 through FY 2011-12



The graph shows the surplus of cash reserves accumulated in the Noxious Weed Cash Fund from 1995 through 2000 as a result of total revenues in combination with general fund appropriations exceeding expenditures. The effects of the elimination and sustained reduction of general fund matching appropriations are indicated by the draw down of cash reserve during FYs 01-02 through 03-04 despite a downward adjustment in program expenditure. Additional cash fund revenues provided by LB 869 enacted in the 2004 legislative session enabled the program to continue with minimal depletion of the cash fund with the partial restoration of general fund revenues to approximately 25% of program expenditure during FY's 04-05 through 06-07. Legislative action during the 2007 legislative session again reduced the general fund match to approximately ½ of the appropriation level for FY 06-07.

Projected expenditures and general fund matching appropriations indicated in this chart for FY 08 -09 and beyond are derived by inflating FY 07-08 budgeted amounts by 3% annually. With these assumptions, even with a downward adjustment in the expenditure base occurring during FY 07-08 through the current fiscal year due to the ability to shift the noxious weed program administrator salary and some administrative expense to the LB 701 appropriation, draw down of the cash reserve has been ongoing with the cash fund potentially exhausted by FY 10-11. Additionally, current law provides for the final of annual transfers from the Weed Book Cash Fund July 1, 2009, contributing to a growing funding gap that will occur absent intervention.

Non Regulatory Activities

There are some limitations to relying entirely on enforcement mechanisms to address weed problems. First, enforcement authorities of the Act are not triggered until a plant is declared a noxious weed. Often, due to political and practical restraints, this may not occur until a plant species is already widely established and opportunities for prevention at early stages of infestation are missed. Once established, a sustained and costly eradication effort may be necessary. Secondly, compelling landowners to fulfill weed control responsibilities is cumbersome and time consuming. Addressing weed problems that manifest over large geographic areas with regulatory mechanisms alone would require considerable coercive governmental intrusion and tax available local resources. Finally, the regulatory model was designed to address weeds that occur predominantly on agricultural lands where there is economic incentive for landowners to control them. Increasingly, plant species of concern involve non-native invasives that may colonize natural areas, publicly managed lands, riparian zones and other places where responsibility for their control is more ambiguous and physically difficult and the impacts are largely to environmental, recreational and other natural resource stewardship objectives of the property they occupy.

In fact, the three most recently declared noxious weeds (purple loosestrife, salt cedar and introduced phragmites) are recent invasive species that almost exclusively occur in wetlands, riparian areas and woodlands, and other lands of marginal value to livestock or crop production. These plants are of particular concern due to their aggressive spread and ability to displace native vegetation, as well as their propensity for high water consumption. Their presence in the state greatly complicates both wildlife habitat and water resource management. Intrusion and establishment of exotic plant species may have other detrimental effects apart from effect on agricultural productivity such as increased fire hazard, deteriorated natural habitats, and impairment of the function of public works.

The key component of the noxious weed program continues to be one of enforcing landowner responsibility for controlling occurrences of declared noxious weeds. However, more recently, the Department's noxious weed program, in conjunction with the broader weed management constituency, has been involved in stimulating and organizing new approaches to existing and emerging vegetation issues. These non-regulatory mechanisms have become a more prominent tool to compliment traditional regulatory mechanisms.

Watch List:

In 2002, the Department initiated a “watch list” of harmful plant species having a potential to cause severe economic or environmental harm if allowed to become established in the state. Although no regulatory responsibility attaches to property owners or managers, or to control authorities, for the presence of watch list species, the watch list alerts the public and the weed control community to troublesome invasive plants to monitor for their introduction and early spread and affect on their surroundings. The list is developed by the Nebraska Noxious Weed Advisory Committee that is made up of private and public agencies that may be affected by invasive non-native plants. The listed plants may be on an adjoining state's weed list or may be affecting agriculture or the ecosystem of Nebraska.

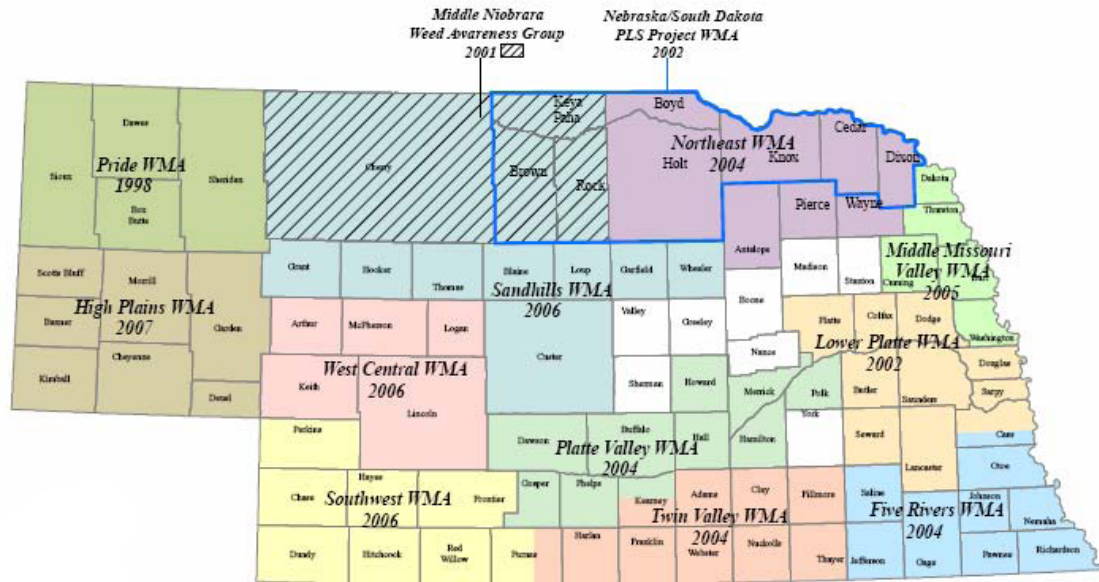
The watch list program is a useful preventative tool. Designation as a watch list species brings timely notoriety to potentially new harmful plants and triggers dissemination of information through a variety of public, academic and private forums. This aids early detection and enables weed control authorities and land managers to take proactive measures. There are currently 16 designated watch list species that may be viewed in the appendix to this report.

Weed Management Areas:

Since 1998, county weed control authorities have organized themselves into regional groupings referred to as Weed Management Areas (WMA's) forming partnerships with public and private land managers, wildlife agencies and other state, federal and local entities with resource management interests and responsibilities. Although not geographical entities per se, WMA's typically are organized within self-defined multi-county or other geographical area. Occasionally, the boundaries of a WMA may overlap state lines. A map of Nebraska Weed Management Areas is shown on the following page. There are currently 13 active WMA's including all but a handful of counties in the State.

As private associations, WMA's themselves are not endowed with regulatory authority and may not compel membership in the organization or the cooperation of private landowners. WMA's rely primarily on educational engagement of the public and the voluntary cooperation of landowners for access to infested areas, although WMA projects may be assisted through regulatory actions of participating local weed control authorities. WMA's are not precluded from having full time, professional staffing, but in practice are rarely employing entities. Typically WMAs administrative functions and physical activities are carried out with labor and staffing contributed by participating entities and individuals.

Nebraska Weed Management Areas



Weed Management Areas are dynamic organizations that have emerged as a primary infrastructure for coordinating response to invasive vegetation problems that manifest over large areas. The WMA organization provides a unique structure for effective sharing of expertise and manpower, and for marshalling internal and external resources for collaborative and intensive weed control projects. Although mapping, planning, and education are key components of WMA projects, WMA's are most active in organizing eradication projects to address high-priority weed infestations and vegetation management problems. Although the catalyst for forming a WMA, and activities of a WMA at any given time, may be focused on a specific species control or vegetative management issue or project, WMA's that have formed in Nebraska infer an association with intended perpetual existence to address various regional noxious and invasive vegetation management issues as they occur within their service areas now and into the future.

Noxious Weed and Invasive Plant Species Assistance Fund (LB 869):

The Department of Agriculture has long encouraged and facilitated the formation of weed management areas. The Department provides training and weed education, and assists with strategic planning through its field personnel who also provide operational advice and project monitoring and evaluation. With the enactment of LB 869 in 2004, the Legislature enhanced resources and authorities available to the Department to stimulate the formation of weed management areas and to provide direct state aid assistance for WMA led projects. A key element of the bill was the creation of the Noxious Weed and Invasive Plant Species Assistance Fund and authorized expenditure of the fund in the form of a targeted grant assistance program

(§§2-958.01 – 2-958.02 of the Weed Control Act). While the grant program has to this point been only modestly funded, its creation has initiated a new direction and initiative for addressing existing and emerging weed problems to supplement and compliment the existing regulatory program.

The immediate catalyst for inserting the grant program into the Noxious Weed Control Act was the anticipation of enactment of legislation then pending before Congress (S144, The Noxious Weed Control and Eradication Act of 2004) authorizing federal pass through funds to state departments of agriculture to assist localized efforts to address invasive weed problems.² This pending federal legislation was an outgrowth of federal initiatives in response to perceptions that the adverse impacts of invasive species on the human and natural environments were increasing. Then President Clinton issued an executive order creating the National Invasive Species Council and directing that the council develop a national invasive species management plan. The plan developed recommended federal funding assistance to engage state and local weed management entities in addressing the rising threat of invasive plants and animals. LB 869 incorporated model law recommendations of the North American Weed Management Association for states to establish administrative authorities and structures to be able to compete for and manage federal funds that would become available under the pending federal legislation and other federal invasive species response funding initiatives.

Although the grant program authorized by the bill was designed with mechanisms to identify and prioritize invasive weed management projects to be consistent with the federal legislation, the program was intended to function independently of the federal funding initiative. While the pending federal legislation perhaps influenced the timing of the introduction of the bill, it was nonetheless consistent with a growing recognition by the Nebraska Weed Control Association and among others within the weed control community of a need for new tools to encourage broad collaborative efforts at the local level in proactive activities that protect against the introduction of new species, engage local stakeholders, and effectively and comprehensively carry out eradication programs. Although the bill was primarily encouraged by Nebraska's county weed control authorities, LB 869 enjoyed broad-based support from among farm, environmental, wildlife and land management entities.

Specifically, the program authorizes the director to solicit and receive applications by local control authorities and weed management entities for assistance and, in consultation with the advisory committee created under section 2-965.01, award grants for the following eligible purposes and subject to the following criteria:

- (a) To conduct applied research to solve locally significant weed management problems;*
- (b) To demonstrate innovative control methods or land management practices which have the potential to reduce landowner costs to control noxious weeds or improve the effectiveness of noxious weed control;*
- (c) To encourage the formation of weed management entities;*
- (d) To respond to introductions or infestations of invasive plants that threaten or potentially threaten the productivity of cropland and rangeland over a wide area;*
- (e) To respond to introductions and infestations of invasive plant species that threaten*

² S144, The Noxious Weed Control & Eradication Act sponsored by Senator Larry Craig of Idaho was enacted and signed by the president. While the act authorized expenditure of up to \$15 million annually under two funding categories as pass-through grant assistance to state Departments of Agriculture, Congress has not appropriated funding.

- or potentially threaten the productivity and biodiversity of wildlife and fishery habitats on public and private lands;*
- (f) To respond to special weed control problems involving weeds not included in the list of noxious weeds promulgated by rule and regulation of the director if the director has approved a petition to bring such weeds under the county control program;*
 - (g) To conduct monitoring or surveillance activities to detect, map, or determine the distribution of invasive plant species and to determine susceptible locations for the introduction or spread of invasive plant species; and*
 - (h) To conduct educational activities.*

The director shall select and prioritize applications for assistance based on the following considerations:

- (a) The seriousness of the noxious weed or invasive plant problem or potential problem addressed by the project;*
- (b) The ability of the project to provide timely intervention to save current and future costs of control and eradication;*
- (c) The likelihood that the project will prevent or resolve the problem or increase knowledge about resolving similar problems in the future;*
- (d) The extent to which the project will leverage federal funds and other nonstate funds;*
- (e) The extent to which the applicant has made progress in addressing noxious weed or invasive plant problems;*
- (f) The extent to which the project will provide a comprehensive approach to the control or eradication of noxious weeds;*
- (g) The extent to which the project will reduce the total population or area of infestation of a noxious weed;*
- (h) The extent to which the project uses the principles of integrated vegetation management and sound science; and*
- (i) Such other factors that the director determines to be relevant.*

Because they are the type of entity that the program contemplates making use of grant funds, an immediate and intended result of the enactment of LB 869 was to stimulate the formation of additional Weed Management Areas. Of the 13 existing WMA's, 9 have been formed since the enactment of LB 869. Today, most of the land area of the state is encompassed within one or more WMA's. Not only have WMA's been the primary recipients of grants awarded under the state grant program, WMA's have been very successful in competing for other funding sources. The Nebraska Weed Control Association reports on its website that WMA sponsored projects have applied for and received over \$9 million in grant dollars.

While LB 869 authorized the grant program, the bill was enacted without any appropriation or funding source. The initial funding was obtained by the Department through a three-year, \$250,000 grant awarded by the Nebraska Environmental Trust. This initial source of funding will be exhausted in the current FY2008-09 grant cycle. During the 2008 session, legislation was introduced (LB 862) with the purpose of fully cash funding the Department's regulatory program by redirecting a portion of surplus revenue streams in the Commercial Feed Act program. The introduced legislation also would have replenished the Noxious Weed & Invasive Plant Species Assistance Fund through a one-time transfer of surplus balance then existing in the Commercial Feed Act Cash Fund to the grant program and by permanent assignment of weed book revenues to the grant program. LB 862 was advanced by the Agriculture Committee with only a one-time transfer of \$250,000 to the Noxious Weed & Invasive Plant Species Assistance Fund

to continue the grant program. The purposes of the Committee amended bill was enacted by incorporation into LB 961, part of the current biennium budget package.

A listing and description of grant awards from the Noxious Weed and Invasive Plant Species Assistance Fund is included among the appendix items. Of particular note has been the ability of the grant fund recipients to leverage federal, local, private and other non-state resources. In some cases, the grant award may be sought to provide a monetary match to meet competitive grant program requirements or preference to applicants also providing monetary commitments to projects for which the grant funds are made available. On average, grant awards thus far have achieved a nearly 4-1 leveraging of monetary and in-kind contributions.

The Legislature has aided WMA-led eradication projects in other ways within the regulatory program as well:

- In addition to installing a grant program, LB 869 inserted new authority for temporary emergency noxious weed designations. Under this authority, the Director may designate a plant as noxious for a period of 18 months. After this 18-month period, the noxious designation remains only if the plant meets criteria, and the Director follows protocols, for permanent designation. It is contemplated that the Director may limit the designation geographically or perhaps to lands meeting certain characterization.
- Also, in 2006, the Legislature expanded statewide an authority that had been previously limited to control authorities within a metropolitan county for right of entry to lands where infestations occur without the prerequisite of individual notice that is required under §2-955 of the Act. This authority, introduced as LB 1081, is confined to be available only if the control authority has published general notice of an eradication project for at least four consecutive weeks prior to its commencement. Additionally, landowners are not subject to actions for non-compliance with weed laws discovered upon such entry unless the landowner is first served individual notice.

The combination of these authorities is intended to assist the planning and execution of large-scale and intensive eradication projects organized by WMA's. An emergency declaration brings the target plant or plants within the regulatory umbrella of the Act, including imposing a duty of landowners to control. The right of entry provides a backstop to help encourage the voluntary participation of blocks of landowners to avoid less effective results if eradication had to be delayed or skipped on segments of the target control area while the normal regulatory mechanisms to compel cooperation or to gain entry could be completed. In practice, however, there has been little need to invoke these authorities as WMA projects have enjoyed a large measure of public and landowner cooperation. Nonetheless, the statutory changes do present advantages to landowners for cooperating with WMA projects. They offer an attractive option to landowners for meeting their duty to control target species on their property for which they might otherwise be subject to regulatory compliance, often at no cost or a fraction of the cost the landowner would incur if forced to pay for control measures on their own.

LB 701 -- Riparian Vegetation Initiative:

As part of a comprehensive water management legislation enacted in 2007, the Legislature assigned an important new task to the Department and to the WMA infrastructure now in place. Sections 3 & 4 of LB 701 created new authority for the Department to receive applications and

award grant funding to projects addressing invasive vegetation within the stream channel and immediately adjacent riparian zones of streams designated as fully and over appropriated. LB 701 assigned initial preference to eligible projects located on streams that are subject to interstate compact. This authority is statutorily assigned as a distinct subcategory of the grant program authorized under previous legislation. Eligible projects are those that have as their primary objective improving conveyance of stream flow in natural streams, i.e. clearing of obstructing vegetation in the channel and adjacent overflow areas. However, it is anticipated that such projects may have other benefits, including reducing consumptive water demand that invasive vegetation may impose and improving opportunities for native plants to reestablish. Grants are only available to weed management entities, local weed control authorities, and NRDs whose territory includes one or more fully appropriated or over appropriated river basins. LB 701 stated legislative intent to fund the riparian management grant program at \$2 million annually. The accompanying appropriations measure, LB 701 A appropriated \$2 million in each of FY's 07-08 & 08-09.

With LB 701, the Legislature linked the noxious weed program and vegetation management as an element of water management. LB 701 simultaneously launched a significant study and planning program to better understand the impacts of invasive weeds on stream management and to arrive at recommended policies and activities to mitigate a growing invasion of exotic plants. Sections 1 & 2 of LB 701 created the Riparian Vegetation Management Task Force charged the following duties:

- Develop and prioritize vegetation management goals and objectives;
- Analyze the cost-effectiveness of available vegetation treatment; and
- Develop plans and policies to achieve such goals and objectives.

The Riparian Management Task Force has proceeded with the administrative assistance of the Department of Agriculture. To facilitate the work of the Task Force, the Department has reassigned the Noxious Weed Program Administrator to the riparian initiative. The task assigned to the Task Force has been divided into 7 topics each assigned a working group to study the matters more closely. These topic areas include:

- Identification and evaluation of vegetation management methods and strategies
- Resolving issues pertaining to streambed ownership
- Identifying effective educational and awareness outreach programs and strategies for engaging private landowners
- Surveying, monitoring and mapping methods and technologies
- Quantifying water consumption of invasive plants, and impacts on water quantity and quality and associated ecosystems

The Task Force is required to make preliminary recommendations to the Governor and the Legislature by December 15, 2008 regarding funding and legislation needed to achieve its goals. It is further directed under current authorization to present a final report and vegetation management plan by June 30, 2009. For a more complete description of the riparian vegetation initiative and the findings, activities and reports of the Riparian Management Task Force to date, the reader is encouraged to visit the special section devoted to this topic available from the Department of Agriculture's website [<http://www.agr.state.ne.us/riparian/riparian.htm>].

Cash Flow and Revenue Options

Existing funding mechanisms supporting the Department of Agriculture’s responsibilities under the Noxious Weed Control Act and potential options for additional cash revenue streams that have been considered by the Committee are examined in more detail in this section. The section concludes with a description of a proposal to reorient the accomplishment of noxious weed objectives through reallocation of program resources toward an expanded Weed Management Area support program.

Existing Cash Funding Components

Currently, \$30 of the annual pesticide products registration fee for both specialty and non-specialty products imposed under §2-2634 of the Nebraska Pesticide Act is directed to the Noxious Weed Cash Fund. As indicated in previous graphics, this is the major cash revenue source and the largest single source of revenue for the noxious weed program. A breakdown of the components of the registration fee and its distribution is given in the following table.

Pesticide Product Registration Fee

	Specialty (5700 Products)		Non-Specialty (5,490 Products)	
	Current Fee	Statutory Maximum	Current Fee	Statutory Maximum
Pesticide Act Administration	\$70	\$110	\$0	\$0
Noxious Weed Regulatory	\$30	\$30	\$30	\$30
Buffer Strip Program	\$60	\$60	\$60	\$60
Water Resources Fund	\$0	\$0	\$110	\$110
Total	\$160	\$200	\$200	\$200

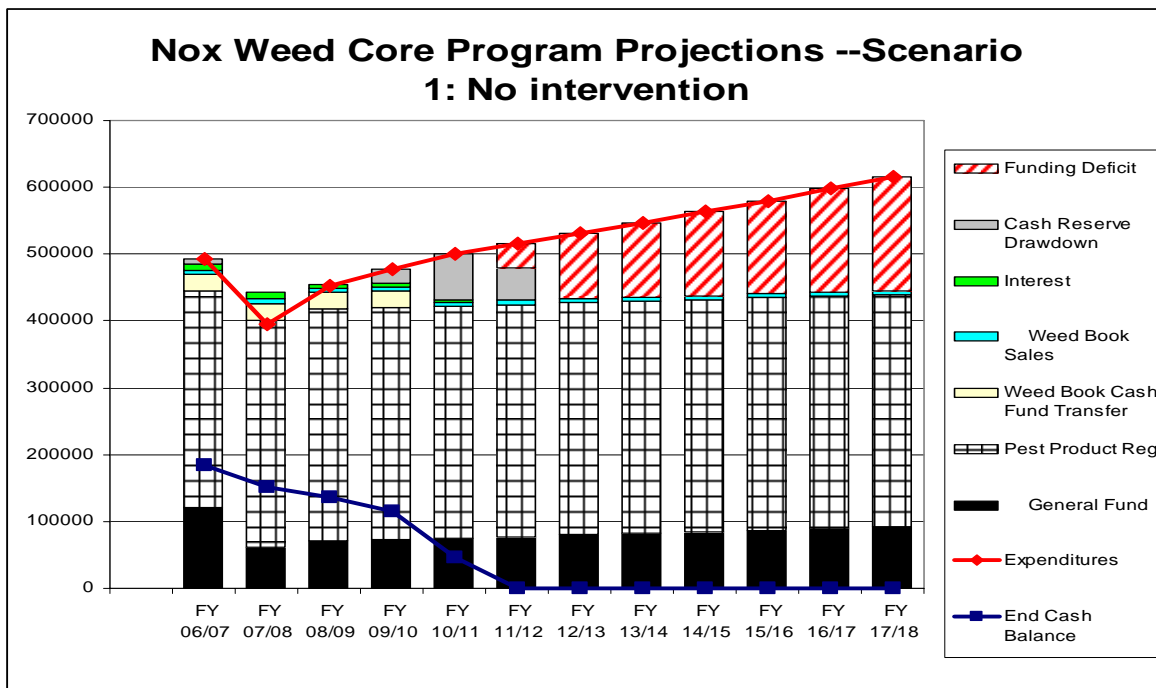
Just over 5,700 specialty products and approximately 5,500 non-specialty pesticide products are registered with the Department of Agriculture. The \$30 registration fee applied to just over 11,000 registrations results in approximately \$350,000 annual revenues to the noxious weed program. This funding source has been increasing at an annual rate of approximately 5%. Since the portion of the fee going toward support of the noxious weed program is a fixed amount, the growth in revenues experienced does not reflect any inflationary factor. This growth is due to a steady increase the number of products registered annually. There is no certainty that this trend will continue, and it is reasonably anticipated that the annual revenue yield from the \$30 earmark will necessarily plateau at some point.

As discussed in greater detail in the previous section, LB 869 enacted in 2004 provided for a series of annual transfers of a surplus balance in the Weed Book Cash Fund to the Noxious Weed Cash Fund. These transfers occur in \$25,000 annual increments, with the final authorized transfer to occur in July, 2009. LB 869 also directed that 25% of the sales price collected from each weed book sold also be deposited in the Noxious Weed Cash Fund. The public has consistently purchased approximately 1000 weed books annually.

The book is currently offered at \$28 per copy, thus \$7 of each purchase is dedicated to the noxious weed program and contributes about \$7000 annually to the program.

Cash Flow Projection – No Intervention Scenario

A cash flow projection for the core noxious weed program through FY 17-18 is shown below. The information shown in the graphic is duplicated in the table that follows. This is a no intervention scenario. It assumes no action taken by the Legislature to enhance revenue streams or restoration of general funds supporting the program beyond the Administration’s FY 2009-10 to 2010-11 budget request. Program expenditures for FY 2011-12 and beyond are derived by applying a 3% growth factor to the Department’s FY’s 2009-2011 budgeted expenditure request.



Year	Actual FY 06/07	Actual FY 07/08	Appropriate Request FY 08/09	Request FY 09/10	Request FY 10/11	Projected FY 11/12	Projected FY 12/13	Projected FY 13/14	Projected FY 14/15	Projected FY 15/16	Projected FY 16/17	Projected FY 17/18
Beginning Cash Balance	\$191,750	\$184,695	\$150,662	\$135,508	\$114,549	\$46,276	\$0	\$0	\$0	\$0	\$0	\$0
Revenue:												
Non-Specialty Prod Reg	\$157,102	\$168,870	\$172,370	\$172,370	\$172,370	\$172,370	\$172,370	\$172,370	\$172,370	\$172,370	\$172,370	\$172,370
Specialty Prod Reg	\$166,830	\$171,000	\$175,000	\$175,000	\$175,000	\$175,000	\$175,000	\$175,000	\$175,000	\$175,000	\$175,000	\$175,000
Pest Product Reg	\$323,932	\$339,870	\$347,370	\$347,370	\$347,370	\$347,370	\$347,370	\$347,370	\$347,370	\$347,370	\$347,370	\$347,370
Weed Book Sales	\$7,004	\$6,164	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000
Weed Book Cash Fund Transfer	\$25,000	\$25,000	\$25,000	\$25,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Interest	\$8,622	\$9,459	\$4,821	\$4,336	\$3,666	\$1,481	\$0	\$0	\$0	\$0	\$0	\$0
Miscellaneous	\$4	\$727										
Total Cash Revenues	\$364,562	\$381,220	\$383,191	\$382,706	\$357,036	\$354,851	\$353,370	\$353,370	\$353,370	\$353,370	\$353,370	\$353,370
Cash Reserve Drawdown	\$7,056	\$0	\$0	\$20,959	\$68,273	\$46,276	\$0	\$0	\$0	\$0	\$0	\$0
Funding Deficit	\$0	\$0	\$0	\$0	\$0	\$36,941	\$97,840	\$111,377	\$125,319	\$139,680	\$154,471	\$169,706
Expenditures	\$492,025	\$394,406	\$453,096	\$476,671	\$500,426	\$515,439	\$530,902	\$546,829	\$563,234	\$580,131	\$597,535	\$615,461
Fund Source Expenditures:												
General Fund	\$120,407	\$61,706	\$70,452	\$73,006	\$75,117	\$77,371	\$79,692	\$82,082	\$84,545	\$87,081	\$89,694	\$92,384
Cash Fund	\$371,618	\$332,700	\$382,645	\$403,665	\$425,309	\$438,068	\$451,210	\$464,747	\$478,689	\$493,050	\$507,841	\$523,076
End Cash Balance	\$184,695	\$150,662	\$135,508	\$114,549	\$46,276	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Funding Mix												
General	24%	16%	16%	15%	15%	15%	15%	15%	15%	15%	15%	15%
Cash	76%	84%	84%	85%	85%	85%	85%	85%	85%	85%	85%	85%

The graphic again projects that maintaining current program effort given anticipated cash and general fund revenue streams will require a draw down of the remaining cash reserve fund which will exhaust the fund in the near future. After that point, the graphic predicts a large and growing funding deficit. Of course, this outcome will not actually occur since it would be expected that the Department would reduce program effort to bring expenditures within available resources. It would be anticipated that funding shortfalls would be met through staff reductions, most likely reducing field staff by 1-2 FTEs.

Note that the no intervention scenario incorporates the Administration's general fund appropriation request for the upcoming biennium of approximately \$75,000 and projects future general fund appropriations as an approximation of a continuation calculation from this base (i.e. base inflated by 3% annually). This level of general fund support would continue the program funding mix of approximately 85% cash, 15% general. The no intervention scenario also adopts conservative revenue estimates, particularly by not incorporating continuation of revenue streams and cost transfers beyond currently expiring statutory authorizations, including:

- Administrative allowance provided for the LB 701 riparian vegetation management program are not extended by the projection beyond the current LB 701A authorization. (The statutory authorization for the underlying grant program currently found in §2-958.02 also expires on June 30, 2009) With this assumption, the noxious weed program is assumed to reacquire the costs of an administrative position during the upcoming biennium that is currently funded under LB 701.
- \$25,000 annual transfers from the Weed Book Cash Fund are not shown to continue beyond FY09-10 as per current authorization. The Department has requested authorization for expenditure of the balance of the Weed Book Cash Fund to publish a new edition of the weed book. Depending on the cost incurred to accomplish this, it is uncertain if sufficient revenues would be remaining to continue the annual transfers.
- Revenues derived from the portion of the pesticide registration fee assigned to the Noxious Weed Control Fund are shown as stagnant from current revenues. While the pesticide registration fees have shown steady growth over time, this is due to an annual increase in the number of products registered. There is no guarantee that this situation will continue, and it is presumed that the number of new products registered annually will plateau at FY 08-09 realized revenue.

Funding Target

For purposes of determining target revenue levels needed to sustain the regulatory program at current capabilities, the Department's FY's 09-10 & 10-11 budget request as adjusted to reflect assumptions of no adjustment of funding streams from current authorizations occurs as discussed previously is utilized as the base. The table on the following page illustrates the replacement revenue streams needed assuming continuation of the current expenditure level inflated at 3% annually, replacement of general funds, and no draw down of the cash reserve.

Cash Revenue Deficit – Noxious Weed Program

	FY 09/10	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	FY 17/18
Expenditure	\$476,671	\$500,426	\$515,439	\$530,902	\$546,829	\$563,234	\$580,131	\$597,535	\$615,461
Fund Source									
Pesticide Act Fees	\$347,370	\$347,370	\$347,370	\$347,370	\$347,370	\$347,370	\$347,370	\$347,370	\$347,370
Cash Fund Transfer	\$25,000								
Weed Book Sales	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000
Misc.	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000
Total Cash Revenues	\$379,370	\$354,370	\$354,370	\$354,370	\$354,370	\$354,370	\$354,370	\$354,370	\$354,370
General Fund	\$73,006	\$75,117	\$77,371	\$79,692	\$82,082	\$84,545	\$87,081	\$89,694	\$92,384
Cash Reserve Drawdown	\$24,295	\$70,939	\$83,698	\$96,840	\$110,377	\$124,319	\$138,680	\$153,471	\$168,706
Cash Revenue Deficit	\$97,301	\$146,056	\$161,069	\$176,532	\$192,459	\$208,864	\$225,761	\$243,165	\$261,091
(Additional cash revenues needed to fund current program without general fund or cash reserve drawdown)									

Note – Model assumes continuation 3% inflation for projecting future program expenditure and general fund continuation.

Potential Revenue Sources

Various proposals have been examined as potential cash revenue sources for their nexus to the purposes of the noxious weed program, either contribution to dissemination of noxious weeds or benefit from a noxious weed program, keying off Dept. of Ag regulation 25-004.01 which reads as follows:

004.01. All noxious weeds as designated in 25 NAC 10-001 are hereby found by the director to be noxious weeds which may be disseminated through articles. The following articles are hereby designated and published by the director as capable of disseminating noxious weeds:

- 004.01A.** Machinery and equipment;
- 004.01B.** Trucks;
- 004.01C.** Grain and seed;
- 004.01D.** Hay, straw, and other material of a similar nature;
- 004.01E.** Nursery stock;
- 004.01F.** Fence posts, fencing, or railroad ties;
- 004.01G.** Sod;
- 004.01H.** Manure;
- 004.01I.** Soil;
- 004.01J.** Any other articles determined by the director to have characteristics rendering it capable of disseminating noxious weeds.

Vehicle Registration

- Description -- Surcharge collected on farm-related and recreational vehicle registrations.
- Revenue -- Just over 2 million vehicles are registered each year in Nebraska. In

2002, there were 35,718 recreational vehicles, 53,886 farm trailers, 24,157 fertilizer trailers, 149,965 farm trucks and 491 soil & water conservation vehicles. This is a total 264,217 vehicle registrations for the types of vehicles that ingress and egress properties with the potential for disseminating weed seed. \$1 additional charge for registration of these vehicles would raise \$264,000 annually.

Nexus -- Vehicles, particularly trucks, are identified by Dept. of Ag regulation as being an article capable of disseminating noxious weeds. Additionally, vehicles haul other articles also identified as capable of disseminating weed seed. Recreational vehicles by nature travel to other states and frequent areas potentially rich in exotic weeds and are potential conduit for noxious weed distribution nationally. Surcharge would impose costs of noxious weed program to recover an externality of vehicle use.

Comment -- Vehicle registrations are viewed as users fee dedicated for highway program purposes. Currently, there is no distribution of vehicle registration fees beyond road programs and recovery of administrative costs of vehicle registration activities. However, there is precedent in other states for use of vehicle registration fee to fund noxious weed activities. Would need good documentation that vehicles are important vector for weed dissemination.

Commercial Feed

Description -- Surcharge added to fee currently collected for commercial feed inspection and licensing

Revenue -- There are approximately 1700 registered commercial feed licensees who pay the \$15 initial or annual licensing fee. Doubling the fee would yield about \$25,000. There is a semi-annual inspection fee (currently 6 cents / ton of feed product sold) imposed on approximately 11 million tons of feed, yielding \$660,000 and a \$25 annual inspection fee per product packaged and sold at retail in 10lb. bags or less, which yields approximately \$100,000 annually. A 1 cent increase in inspection fee would yield approximately \$110,000 and 10% increase in small package approximately \$10,000.

Nexus -- Weed contaminated grain used in feed formulations is a potential vector for weed dissemination. Additionally, since manure is identified as an article, commercial feed fee surcharge would indirectly place incidence on this avenue. Recent program emphasis on weed management as an element of water management expands benefited stakeholders.

Comment -- One-time \$250,000 transfer to noxious weed grant program scheduled this year under current budget. Inspection fee is dedicated source of revenue for regulatory program. Diversion for noxious weed funding is expansion of purpose of collection and would require statutory change.

Commercial Seed

- Description -- Surcharge added to fee currently collected for commercial seed inspection and licensing
- Revenue -- Companies that package and label seeds pay annual registration fee ranging from \$25 to \$750 based on annual sales in Nebraska. The Dept. collected \$41,375 in seed firm registration fees in FY00-01. Doubling of fee would raise approximately \$40-45,000.
- Nexus -- Commercial seed companies benefit from noxious weed control by avoiding production and weed cleaning/processing costs. Commercial seed is potential vector for dissemination of weeds.

Pesticide Act Product Registration & License Fees

- Description -- Increase or reallocation of pesticide product registration fees currently collected under the Pesticide Act. .

Revenue -- Currently, \$30 of existing specialty and non-specialty product registration fees is earmarked to the Noxious Weed Cash Fund which already results in approximately \$350,000 annual revenue. The registration fee for specialty products is currently \$160 and the fee for non-specialty products is \$200. Both specialty and non specialty product fees may be adjusted within a statutory maximum of \$210. The remainder of the specialty project registration fee is allocated \$60 to the Buffer Strip program, and \$70 to the Pesticide Act Administration Cash Fund. The remainder of the non-specialty registration fee is allocated as \$60 to the Buffer Strip program, and \$110 to the Natural Resources Water Quality Fund. \$10 of the fee redirected to noxious weed program, either by increasing fee by \$10 or reallocating portion of fees currently going to other programs would raise approximately \$110,000.
- Nexus -- Pesticide dealers benefit by aggressive noxious weed program through sales of herbicides and other products.

Comment -- Current law reserves non-specialty registration fees to the Natural Resources Water Quality Fund. Revenue streams from \$60 of registration fee allocated to buffer strip program are mostly contractually committed for long-term contracts with landowners. There is considerable resistance to specialty product registration fees being used for programs that benefit primarily agriculture and rural areas. Additionally, the fee adjustments available under current law for non-specialty products are considered reserve revenue streams for support of administrating the Pesticide Act.

Nebraska Weed & Insect Books

Description --	Reallocation of surplus cash fund reserves currently in Weed & Insect Cash Fund and earmarking of portion of weed book sales revenue.
Revenue --	Cash fund currently had significant uncommitted balance due to discontinuation of publication of insect book and recent weed book publishing costs well below anticipated. Current law transfers \$25,000 / yr. for 6 years and allocates 25% of weed book sales price to noxious weed program. 1000 weed books sold annually. Current 25% of sales price is just under \$7 / book. Total revenue is anticipated at approx. \$30-35,000/ year for 6 years, and \$6-7,000 thereafter.
Nexus --	Weed books purchased primarily by those with commercial or academic interest in noxious weed control or persons who presumably would support noxious weed program.
Comment --	Revenues already collected by Plant Industry Div. of Dept. of Ag. Language requiring book price to reflect only cost of production was eliminated to avoid Dept. having to lower price because of lower publishing costs. Dept. is requesting authorization to expend fund for next publication in upcoming biennium. Depending on publishing costs, surplus funds may be available to continue transfers.

Weed Management Area Support Program Proposal

While the primary purpose of LR 314 is to provide a forum for stakeholder interests to work with the Committee to arrive at a consensus proposal for fully cash-funding the Department of Agriculture's duties under the Noxious Weed Control Act, the resolution also directs the Committee "to identify possible efficiencies in the delivery and funding of weed control programs and services." In the course of the interim study, the following outline of a proposal directed at this purpose was presented to stakeholder groups. In essence, the proposal would consolidate and redefine the purposes of the LB 869 (2004) and LB 701 (2007) grant programs administered by the Department of Agriculture under authority and direction of §2-958.02 of the Noxious Weed Act.

The proposal would essentially recognize and utilize Weed Management Areas (WMA's) as a primary delivery mechanism, and if necessary, deemphasize or perhaps replace assistance and oversight provided by the Department of Agriculture. Since the enactment of LB 869 in 2004, particularly stimulated by the establishment of the Noxious Weed and Invasive Species Assistance Fund and the corresponding grant program available to "weed management entities" created by that bill, weed management areas have emerged as a primary infrastructure for addressing and coordinating on a regional basis response to invasive vegetation problems.

Guiding principles:

- Replace the LB 701 project specific program with a permanent invasive vegetation control and integrated management funding infrastructure.

- Formalize WMA's as a primary weed response mechanism. WMA's have superior attributes to the regulatory infrastructure to marshal broader funding base in involve more stakeholders, as well as providing mechanism to respond to regional invasive weed issues.
- Formalize local stakeholder participation and provide clear statutory mechanisms to enable local govt. funding participation in WMA structure and activities.
- Reinforce and stimulate county weed program role and authorities in ongoing maintenance activities in follow-up to WMA projects.
- Reallocate existing core program funds to WMA support program (partially offset budget request for continuing LB 701 funding at current level).
- Permanently allocate Dept. of Ag weed program FTE Administrator position to WMA support position
- Provide means of ongoing assessment and data on invasive weed issues to guide public policy.

Primary Substantive Elements

- Expand legislative findings in §2-945.02 to include a purpose of the Noxious Weed Control Act is to encourage cooperation and collaboration among resource management stakeholders in addressing regional vegetation management issues. Recognize WMA's as an essential structure for accommodating such collaboration and declaring a public interest in encouraging the formation and continuation of weed management areas and that the entire state be within a WMA service area.
- Insert a new defined term, "weed management area" within 2-953 and clarify the existing term "weed management entity." The combination of these is intended to distinguish weed management areas as addressing weed management and vegetative issues generally within defined geographic boundaries. The definition of a WMA is intended to infer an association with intended perpetual existence that addresses various regional noxious and invasive vegetation management issues as they occur. Additionally, the definition of WMA for purposes of the WMA support program specifically refers to those formed with County Control Authorities and NRD's as members.
- Create the Weed Management Area Support and Invasive Vegetation Response Fund. The Fund would be a successor to the Noxious Weed and Invasive Species Assistance Fund and directs the transfer of funds remaining in the existing grant program fund to the new fund.
- Authorize state aid assistance in the form of a competitive grant program from funds available in the Weed Management Area Support and Invasive Vegetation Response Fund in three categories

a) Riparian Management

Essentially continues availability of the subcategory of grant funding for LB 701 objectives, i.e. improved stream flow conveyance with priority for projects in compact and over appropriated streams, and to implement the riparian vegetation management plan produced by the Riparian Management Task Force.

b) General Category:

Essentially continue availability of grant funding for LB 869 objectives. An eligibility category for counties for special weed control problems brought under the county control program is transferred to the county control authority supplemental program category.

c) County Control Authority support

Inserts new category for direct assistance to county programs for projects that coordinate county efforts with WMA projects. The category includes:







- i) eligibility for projects that are adjuncts to projects that may be carried out by an adjacent WMA. In other words, a weed management area project focused on a specific weed management issue prominent within its territory may also be present in adjacent areas outside of the WMA boundary but not a prominent issue in the adjacent WMA. The purpose of this category is to enable a county to piggyback with a project that may take place in an adjacent WMA.
 - ii) Eligibility for projects that are follow up maintenance and consolidation of a WMA project. The draft envisions follow up efforts to eradication projects whereby once a level of control is attained, counties continue the effort through enforcement and in provision of assistance and services, and follow-up vegetation restoration to avoid a recurrence of widespread infestation.
 - iii) Transfers existing eligibility for projects targeting special weeds brought under the county control program by petition to this category under the WMA support program.
- Carry over existing statutory criteria that apply to the LB 869 grant program to apply to all three grant categories.
 - Authorize the Director to allocate available funding between categories to maintain maximum flexibility to devote resources to emergencies and highest priorities.
 - Create a Weed Management Area Council consisting of representatives of WMA's and state agency representation replicating that currently appointed to the Riparian Management Task Force. The Council is contemplated as a permanent replacement to the Riparian Management Task Force with responsibility of developing and maintaining vegetation management goals and priorities and advising the Director in administration of the WMA support program. The Council would prepare a biannual report and evaluation regarding activities funded through the WMA support program.
 - The draft specifically contemplates a permanent assignment of the administrative position and costs currently and temporarily funded through the LB 701 as a permanent coordinator of the WMA support program functioning similarly to an executive secretary to the WMA council. It is anticipated that this position would be primarily responsible for compiling information and preparing reports and recommendations of the Council and administering the grant applications.











Appendix

Nebraska Noxious and Watch List Species

Noxious Weeds of Nebraska




The State of Nebraska has had a noxious weed law for many years. Over the years, this law has undergone numerous revisions. The Director of Agriculture determines which plants are to be deemed as "noxious" and the control measures to be used in preventing their spread.







Images	Common Name (Species)	Basic Biology	Primary Habitat	Control
 <p>View More</p>	<p>Musk Thistle (<i>Carduus nutans</i> L.)</p>	<p>Growth Form: Forb Life Span: Biennial (sometimes annual) Origin: Eurasia Flowering Dates: May-August Reproduction: Seeds</p>	 <p>Click to Enlarge</p>	<p>Mechanical</p> <p>Cultural</p> <p>Chemical</p> <p>Biological</p>
 <p>View More</p>	<p>Leafy Spurge (<i>Euphorbia esula</i> L.)</p>	<p>Growth Form: Forb Life Span: Perennial Origin: Eurasia Flowering Dates: May-September Reproduction: Rhizomes and seeds</p>	 <p>Click to Enlarge</p>	<p>Mechanical</p> <p>Cultural</p> <p>Chemical</p> <p>Biological</p>
 <p>View More</p>	<p>Canada Thistle (<i>Cirsium arvense</i> (L.) Scop.)</p>	<p>Growth Form: Forb Life Span: Perennial Origin: Eurasia Flowering Dates: June-August Reproduction: Rhizomes and seeds</p>	 <p>Click to Enlarge</p>	<p>Mechanical</p> <p>Cultural</p> <p>Chemical</p> <p>Biological</p>






 <p>View More</p>	<p>Plumeless Thistle (<i>Carduus acanthoides</i> L.)</p>	<p>Growth Form: Forb Life Span: Biennial (sometimes winter annual) Origin: Eurasia Flowering Dates: June-August Reproduction: Seeds</p>	 <p>Click to Enlarge</p>	<p>Mechanical Cultural Chemical Biological</p>
 <p>View More</p>	<p>Spotted and Diffuse Knapweed (<i>Centaurea maculosa</i> Lam.) & (<i>Centaurea maculosa</i> Lam.)</p>	<p>Growth Form: Forb Life Span: Biennial (or short-lived perennial) Origin: Eurasia Flowering Dates: June-September Reproduction: Seeds</p>	 <p>Click to Enlarge</p>	<p>Mechanical Cultural Chemical Biological</p>
 <p>View More</p>	<p>Purple Loosestrife (<i>Lythrum salicaria</i> L.)</p>	<p>Growth Form: Forb Life Span: Perennial Origin: Eurasia and Africa Flowering Dates: July-September Reproduction: Rhizomes and seeds</p>	 <p>Click to Enlarge</p>	<p>Mechanical Cultural Chemical Biological</p>
 <p>View More</p>	<p>Saltcedar (<i>Tamarix ramosissima</i> Ledeb) and (<i>Tamarix parviflora</i> DC)</p>	<p>Growth Form: Shrub or Forb Life Span: Perennial Origin: Eurasia Flowering Dates: April-September Reproduction: Seeds, root sprouts, & buried stems</p>	 <p>Click to Enlarge</p>	<p>Mechanical Cultural Chemical Biological</p>
 <p>View More</p>	<p>Phramites aka Common Reed (<i>Phragmites australis</i> spp. <i>australis</i>)</p>	<p>Growth Form: Grass Life Span: Perennial Origin: Europe Flowering Dates: June-August Reproduction: Seeds and Stolons</p>	 <p>Click to Enlarge</p>	<p>Mechanical Cultural Chemical Biological</p>

Nebraska Watch List for Invasive Species

What is the Watch List and its Purpose? The Purpose of the Watchlist is to provide a list of possible troublesome invasive plants to monitor for their spread and affect on their surroundings. The list is developed by the Nebraska Noxious Weed Advisory Committee that is made up of private and public agencies that may be affected by invasive non-native plants. The listed plants maybe on an adjoining state's weed list or maybe affecting agriculture or the ecosystem of Nebraska. If you would like to see the current distribution of any watchlist species, please visit or mapping site at <http://www.neweedmapper.org> and select those species of concern.

Images	Common Name (Species)	Basic Biology	Habitat of Concern	Control
 <p>View More</p>	<p>Amur Honeysuckle (<i>Lonicera maackii</i>)</p>	<p>Growth Form: Forb Life Span: Biennial Origin: Asia Flowering Dates: July-September Reproduction: Seeds</p>	<p>Woodlands of Eastern Nebraska</p>	<p>Mechanical Cultural Chemical Biological</p>
 <p>View More</p>	<p>Crown Vetch (<i>Coronilla varia</i>)</p>	<p>Growth Form: Forb Life Span: Perennial Origin: Eurasia/North Africa Flowering Dates: May-August Reproduction: Seeds</p>	<p>Grasslands Statewide</p>	<p>Mechanical Cultural Chemical Biological</p>
 <p>View More</p>	<p>Dalmatian Toadflax (<i>Linaria dalmatica</i>)</p>	<p>Growth Form: Forb Life Span: Perennial Origin: Europe Flowering Dates: July-August Reproduction: Rhizomes and seeds</p>	<p>Grasslands and Woodlands of Northwestern Nebraska</p>	<p>Mechanical Cultural Chemical Biological</p>

	<p>Dame's Rocket (<i>Hesperis matronalis</i>)</p>	<p>Growth Form: Forb Life Span: Biennial Origin: Europe Flowering Dates: May-August Reproduction: Seeds</p>	<p>Woodlands Statewide</p>	<p>Mechanical Cultural Chemical Biological</p>
	<p>European Buckthorn (<i>Rhamnus cathartica/ R.davurica</i>)</p>	<p>Growth Form: Tree/Shrub Life Span: Perennial Origin: Europe Flowering Dates: May-June Reproduction: Seeds</p>	<p>Woodlands Statewide</p>	<p>Mechanical Cultural Chemical Biological</p>
	<p>Garlic Mustard (<i>Allaria petiolata</i>)</p>	<p>Growth Form: Forb Life Span: Biennial Origin: Europe Flowering Dates: May-June Reproduction: Seeds</p>	<p>Woodlands of Eastern Nebraska- spreading westward</p>	<p>Mechanical Cultural Chemical Biological</p>
	<p>Whitetop sp. (<i>Cardaria spp.</i> - three species)</p>	<p>Growth Form: Forb Life Span: Perennial Origin: Eurasia Flowering Dates: April-May Reproduction: Rhizomes and seeds</p>	<p>Grasslands Statewide</p>	<p>Mechanical Cultural Chemical Biological</p>
 <p>View More</p>	<p>Houndstongue (<i>Cynoglossum officinale</i>)</p>	<p>Growth Form: Forb Life Span: Biennial Origin: Europe Flowering Dates: May-July Reproduction: Seeds</p>	<p>Woodlands and Bottomlands in North-central and Western Nebraska</p>	<p>Mechanical Cultural Chemical Biological</p>
	<p>Multiflora Rose (<i>Rosa multiflora</i>)</p>	<p>Growth Form: Shrub Life Span: Perennial Origin: Asia Flowering Dates: May-June Reproduction: Seeds</p>	<p>Grasslands and Woodlands in East 1/2 of state - spreading westward</p>	<p>Mechanical Cultural Chemical Biological</p>

<p>View More</p>				
 <p>View More</p>	<p>Scotch Thistle (<i>Onopordum acanthium</i>)</p>	<p>Growth Form: Forb Life Span: Biennial Origin: Eurasia Flowering Dates: June-August Reproduction: Seeds</p>	<p>Grasslands West and Central Nebraska</p>	<p>Mechanical Cultural Chemical Biological</p>
 <p>View More</p>	<p>Sericea Lespedeza (<i>Lespedeza cuneata</i>)</p>	<p>Growth Form: Forb Life Span: Perennial Origin: Asia Flowering Dates: July-October Reproduction: Seeds</p>	<p>Grasslands in Eastern 1/2 of Nebraska</p>	<p>Mechanical Cultural Chemical Biological</p>
 <p>View More</p>	<p>Yellow Toadflax (<i>Linaria vulgaris</i>)</p>	<p>Growth Form: Forb Life Span: Perennial Origin: Eurasia Flowering Dates: June-August Reproduction: Rhizomes and seeds</p>	<p>Grasslands Statewide</p>	<p>Mechanical Cultural Chemical Biological</p>
 <p>View More</p>	<p>St. John's Wort (<i>Hypericum perforatum</i>)</p>	<p>Growth Form: Forb Life Span: Perennial Origin: Europe Flowering Dates: June-August Reproduction: Seeds and Rhizomes</p>	<p>Grasslands Statewide</p>	<p>Mechanical Cultural Chemical Biological</p>
 <p>View More</p>	<p>Caucasian Bluestem (<i>Bothriochloa bladhii</i>)</p>	<p>Growth Form: Grass Life Span: Perennial Origin: Eurasia Flowering Dates: June-August Reproduction: Rhizomes and seeds</p>	<p>Grasslands in Southeastern Nebraska</p>	<p>Mechanical Cultural Chemical Biological</p>
<p>View More</p>	<p>Autumn Olive (<i>Elaeagnus umbellata</i>)</p>	<p>Growth Form: Tree/Shrub Life Span: Perennial Origin: Eurasia Flowering Dates: May-June Reproduction: Seeds and Root Suckers</p>	<p>Grasslands and Bottomlands of Eastern 1/2 of Nebraska</p>	<p>Mechanical Cultural Chemical Biological</p>

View More	Russian Olive <i>(Elaeagnus angustifolia)</i>	Growth Form: Tree/Shrub Life Span: Perennial Origin: Eurasia Flowering Dates: May-June Reproduction: Seeds and Root Suckers	Grasslands and Bottomlands Statewide	Mechanical Cultural Chemical Biological
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Nebraska Watch List for Invasive Species 2007

Grant Awards From the Noxious Weed and Invasive Plant Species Assistance Fund

2006

Applicant	Grant Dollars Requested	Matching Dollars/In Kind Services Provided by Applicant
Middle Missouri Valley Weed Management Area	\$ 8,133.32	\$ 8,133.33
Five Rivers Weed Management Area	\$ 5,000.00	\$ 5,000.00
University of Nebraska Lincoln	\$ 4,620.00	\$ 1,512.00
Lower Platte Weed Management Area	\$ 8,300.00	\$ 77,835.00
Twin Valley Weed Management Area	\$20,000.00	\$ 50,000.00
Clear Creek Wildlife Management Area	\$10,000.00	\$ 12,000.00
Middle Niobrara Weed Awareness Group	\$ 6,000.00	\$107,259.00
Nebraska Web-Based Weed Mapping Project	\$15,000.00	\$ 94,500.00
TOTAL	\$77,053.32	\$353,039.33

2007

Applicant	Grant Dollars Requested	Matching Dollars/In Kind Services Provided by Applicant
Five Rivers Weed Management Area	\$ 5,000.00	\$ 0.00
University of Nebraska Lincoln	\$ 4,675.00	\$ 1,530.00
Lower Platte Weed Management Area	\$ 6,600.00	\$ 73,835.00
Clear Creek Wildlife Management Area	\$10,000.00	\$ 13,500.00
Middle Niobrara Weed Awareness Group	\$ 6,000.00	\$107,259.00
Nebraska Web-Based Weed Mapping Project	\$15,000.00	\$ 94,550.00
Twin Valley Weed Management Area	\$17,000.00	\$ 50,000.00
Platte Valley Weed Management Area	\$15,022.00	\$ 16,035.00
West Central Nebraska Weed Management Area	\$10,000.00	\$200,200.00
TOTAL	\$89,297.00	\$556,909.00

2008

Applicant	Grant Dollars Requested	Matching Dollars/In Kind Services Provided by Applicant
Platte Valley Weed Management Area	\$24,330.00	\$ 4,260.00
Middle Niobrara Weed Awareness Group	\$ 6,000.00	\$107,259.00
Nebraska Weed Control Association	\$ 15,000.00	\$ 40,672.00
Phelps County Weed Control	\$ 8,000.00	\$ 53,600.00
Five Rivers RC & D	\$ 6,500.00	\$ 9,720.00
Sandhills Weed Management Area	\$ 5,400.00	\$ 5,400.00
Panhandle Research Integration for Discovery Education	\$10,525.00	\$ 14,800.00
Cedar and Dixon Counties Weed Control	\$11,600.00	\$ 3,468.83
Lower Platte Weed Management Area	\$ 6,600.00	\$267,455.00
TOTAL	\$93,955.00	\$506,634.83

NENoxious Weed Invasive Plants Species Assistance Fund_121708.doc

Nebraska Weed Management Area Grants All Sources: 2002 - 2007

Weed Management Area	Grant Name*	Year	Grant Award	Matching funds	Project Total
PRIDE Panhandle Research Integration for Discovery Education	PTI	2002	\$65,700	\$65,700	\$131,400
	PTI	2003	\$63,260	\$63,260	\$126,520
	PTI	2004	\$60,000	\$60,000	\$120,000
	PTI	2005	\$25,000	\$25,000	\$50,000
	NRCS	2006-8	\$127,000		\$127,000
	USFS	2002	\$9,000	\$9,000	\$18,000
	USFS	2003	\$9,000	\$9,000	\$18,000
	USFS	2004	\$9,000	\$9,000	\$18,000
	USFS	2005	\$19,870	\$19,870	\$39,740
	USFS	2006	\$37,311	\$37,311	\$74,622
	Total			\$425,141	\$298,141
MNWAG Middle Niobrara Weed Awareness Group	PTI	2004-5	\$57,750	\$57,750	\$115,500
	PTI	2005-6	\$50,500	\$50,500	\$101,000
	NDA	2006	\$6,000	\$6,000	\$12,000
	NDA	2007	\$6,000	\$107,259	\$113,259
	Total			\$120,250	\$221,509
Lower Platte Weed Management Area	PTI	2004	\$54,000	\$121,180	\$175,180
	PTI	2005	\$48,000	\$71,544	\$119,544
	PTI	2006	\$28,700	\$93,535	\$124,235
	NDA	2006	\$8,300	\$15,000	\$23,300
	NDA	2007	\$6,600	\$73,835	\$80,435
	Total			\$145,600	\$375,094
Northeast Nebraska Weed Management Area	PTI	2005	\$48,000	\$69,047	\$117,047
	PTI	2006	\$49,500	\$49,500	\$99,000
	Total			\$97,500	\$118,547
Twin Valley Weed Management Area	NDA	2006	\$20,000	\$20,000	\$40,000
	NDA	2007	\$17,000	\$50,000	\$67,000
	PTI	2006	\$30,000	\$68,500	\$98,500
	NAG	2006	\$37,500		\$37,500
	ACOE	2006	\$37,500		\$37,500
	Total			\$142,000	\$138,500
Clear Creek Wildlife Management Area	NDA	2006	\$10,000	\$12,000	\$22,000
	NDA	2007	\$10,000	\$13,500	\$23,500
	Total			\$20,000	\$25,500
Nebraska Web- Based Weed Mapping Project	NDA	2006	\$15,000	\$94,500	\$109,500
	NDA	2007	\$15,000	\$94,550	\$109,550
	Total			\$30,000	\$189,050

Platte Valley Weed Management Area	NACO	2005	\$10,000		\$10,000
	CIPM	2006	\$5,000		\$5,000
	NDA	2007	\$15,022	\$16,035	\$31,057
	Total		\$30,022	\$16,035	\$46,057
Five Rivers Weed Management Area	NDA	2006	\$5,000	\$5,000	\$10,000
	NDA	2007	\$5,000	\$5,000	\$10,000
	Total		\$10,000	\$10,000	\$20,000
University of Nebraska - Lincoln	NDA	2006	\$4,620	\$1,512	\$6,132
	Total		\$4,620	\$1,512	\$6,132
Middle Missouri Weed Management Area	NDA	2006	\$8,133	\$8,133	\$16,266
	Total		\$8,133	\$8,133	\$16,266
Sandhills Weed Management Area	USFS	2006	\$13,970	\$13,970	\$26,540
	Total		\$13,970	\$13,970	\$26,540
SD/NE PLS	PTI	2003	\$79,000	\$79,000	\$158,000
		2004	\$50,000	\$50,000	\$100,000
		2005	\$12,000	\$12,000	\$12,000
	Total		\$141,000	\$141,000	\$282,000
Southwest Nebraska Weed Management Area					
	Total				
West Central Weed Management Area	NDA	2007	\$10,000	\$200,200	\$210,200
	Total		\$10,000	\$200,200	\$210,200
Totals			\$1,198,236	\$1,757,191	\$2,875,592

*Grant Names/Grantor

PTI = Fish and Wildlife Foundation Pulling Together Initiative

NDA = Nebraska Department of Agriculture Noxious Weed & Invasive Plant Species

Assistance Fund with funds from Nebraska Environmental Trust Grant

NRCS = Natural Resources and Conservation Service Innovative Grant Program

NACO = National Association of County Officials Five Star Restoration Grant

CIPM = Center for Invasive Plant Management Cooperative Weed Management Area Grants

USFS = State and Private Forestry Grants NAG= Nebraska Attorney General

EPA = Five Star Restoration Challenge Grant Program ACOE= Army Corps of Engineers