

## LEGISLATIVE BILL 49

Passed over the Governor's veto May 24, 1989.

Introduced by Dierks, 40

AN ACT relating to noxious weeds; to amend sections 2-946.02, 2-952, 2-953, 2-955, 2-956, 2-957, 2-958, 2-961, 2-962, 2-963, and 2-2603, Reissue Revised Statutes of Nebraska, 1943, and section 2-954, Revised Statutes Supplement, 1988; to name an act; to state intent; to authorize the Director of Agriculture to administer the noxious weed control program as prescribed; to redefine terms; to change provisions relating to powers and duties of cities, villages, and control authorities as prescribed; to provide powers and duties for the director; to create a fund; to establish an advisory committee; to change and provide for distribution of fees; to provide for enforcement; to provide a penalty; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 2-946.01 to 2-966 and sections 1, 2, 14, and 15 of this act shall be known and may be cited as the Noxious Weed Control Act.

Sec. 2. The Legislature finds and declares that:

(1) The failure to control noxious weeds on lands in this state is a serious problem which is detrimental to the production of crops and livestock and to the welfare of residents of this state and which may devalue land and reduce tax revenue;

(2) It is the purpose of the Noxious Weed Control Act to establish a workable framework, delineate responsibilities, encourage education of the public concerning noxious weeds, and provide the necessary authority to effectively control noxious weeds;

(3) It is the duty of each person who owns or controls land to effectively control noxious weeds on such land. County boards or control authorities are responsible for administration of noxious weed control laws at the county level;

(4) The Department of Agriculture should have

responsibility for (a) establishing basic standards such as designating which plants are to be considered noxious weeds and which control measures are to be used in particular situations and (b) monitoring implementation of the act by the control authorities; and

(5) A state noxious weed advisory committee shall be convened by the director with broad representation to advise the director.

Sec. 3. That section 2-946.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-946.02. All cities and villages in this state ~~may~~ shall provide for; the control of noxious weeds within their jurisdiction and may appropriate money for; and make the necessary expenditures for noxious weed control. The director shall advise cities and villages concerning noxious weed control. ~~Nothing in this section shall prevent the formation of a weed control district in cities and villages under the other provisions of section 2-946-01.~~

Sec. 4. That section 2-952, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-952. It shall be the duty of every person to control the spread of noxious weeds on lands owned or controlled by him or her and to use such methods for that purpose and at such times as are approved and specified in rules and regulations adopted and promulgated by the control authority director.

Sec. 5. That section 2-953, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-953. For purposes of the Noxious Weed Control Act: As used in sections 2-952 to 2-963, unless the context otherwise requires:

(1) Person shall mean any individual, partnership, firm, corporation, company, society, or association, the state or any department, agency, or subdivision thereof, or any other public or private entity;

(2) Control; controlled; or controlling shall mean being in charge of or being in possession; whether as owner, lessee, renter, or tenant, under statutory authority; or otherwise;

(2)(a) Control, with respect to land, shall mean authority to operate, manage, supervise, or exercise jurisdiction over or any similar power. The state or federal government or a political subdivision shall not be deemed to control land on which it has an

easement as long as it does not otherwise operate, manage, supervise, or exercise jurisdiction over the land; and

(b) Control, with respect to weeds, shall mean the prevention, suppression, or limitation of the growth, spread, propagation, or development or the eradication of weeds;

(3) County board shall mean the county board of commissioners or supervisors;

(4) Noxious weeds shall mean and include Canada Thistle (*Cirsium arvense* {~~h~~} ~~Scop~~); Leafy Spurge (*Euphorbia esula* {~~h~~}); Musk Thistle (*Carduus nutans* Sub Species *heiophyllus* {Petrie} Stej. and Stef); and Plumeless Thistle (*Carduus acanthoides*; {~~h~~}) any weeds designated and listed as noxious in rules and regulations adopted and promulgated by the director;

(5) Control authority shall mean the county weed district board, or the county board if it is designated as the control authority pursuant to this section, which board shall represent all rural areas and cities, villages, and townships within the county boundaries; and

(6) Director shall mean the Director of Agriculture or his or her designated representative.

The county board may, following an election in which a majority of the votes cast are in favor of such action, function as and exercise the authority and carry out the duties of the county weed district board. To initiate such an election, the county board may, by resolution, require the county clerk of such county to have placed upon the ballot at the election next following such resolution, the question, Shall the county weed district board be dissolved and its duties and authority be exercised by the county board?

Yes . . . . No . . . .

If a majority of the votes cast on this question are opposed to dissolution of the county weed district board, the county shall remain subject to the direction and authority of the elected county weed district board. If a majority of the votes cast on this question are in favor of the dissolution of the county weed district board, the county board shall function as and exercise the authority and carry out the duties of the county weed district board. If, at any time following the dissolution of the county weed district board, county residents, representing at least ten percent of the votes cast in the preceding general election in such county, submit a petition to the county clerk for reestablishment of the county weed district

board as an independent elected body, the clerk shall place the following question on the next general election ballot: Shall the county weed district board be reestablished and elected independent of other county officials?

Yes .... No ....

If a majority of the ballots favor reestablishment of the independent board, the county board shall appoint an initial county weed district board and thereafter the county weed district board members shall be elected in conformity with this section.

When the county board does not function as the county weed district board, such board shall be composed of five members, three of whom shall be from rural areas and two of whom shall be from cities, villages, or townships. The county board shall appoint members to fill any vacancy occurring on the county weed district board. The two members from cities, villages, or townships shall thereafter be elected at the general election in 1966 and each four years thereafter, and the three members from rural areas shall be elected at the general election in 1968 and each four years thereafter. Persons seeking election to the county weed district board shall be nominated and elected regardless of political affiliation. They shall file in the same manner as is provided by law for county superintendents and shall not be required to pay a filing fee. The members of the county weed district board shall be paid a per diem of not less than twelve dollars for each day actually and necessarily engaged in the performance of their official duties as members of such board and shall be allowed mileage reimbursement on the same basis as provided in section 23-1112, ~~for county officers and employees.~~ The chairperson of the county board may appoint one additional member from the county board to serve as an ex officio member of the county weed district board to provide coordination between such boards, except that the county board member or commissioner so appointed shall not be entitled to the expense reimbursement allowed county weed district board members. The ex officio member shall possess the same authority as other members, including the right to vote. Sec. 6. That section 2-954, Revised Statutes Supplement, 1988, be amended to read as follows:

2-954. (1)(a) The duty of enforcing ~~sections 2-952 to 2-963 and carrying out their provisions is and carrying out the Noxious Weed Control Act shall be~~ vested in the director and the control authorities as

designated in such sections the act. The control authority The director shall determine what weeds are noxious for purposes of the act. A list of such noxious weeds shall be included in the rules and regulations adopted and promulgated by the director. The director shall prepare, publish, and revise as necessary a list of noxious weeds. The list shall be distributed to the public by the director, the state agricultural extension service, the control authorities, and any other body the director deems appropriate. The director shall, from time to time, adopt and publish promulgate, rules and regulations on methods as efficient for control of noxious weeds and adopt, and promulgate, and publish such ordinances, rules, and regulations as are necessary to carry out such sections the act. Whenever special weed control problems exist in a county involving weeds not defined as noxious in section 2-953 included in the rules and regulations, the control authority may petition the director to bring such weeds under the county control program. The petition shall contain the approval of the county board. Prior to petitioning the director, the control authority, in cooperation with the county board, shall hold a public hearing and take testimony upon the petition. Such hearing and the notice thereof shall be in the manner prescribed by the Administrative Procedure Act. A copy of the transcript of the public hearing shall accompany the petition filed with the director. The director may approve or disapprove the request. If approval is granted, the control authority may proceed under the forced control provisions of sections 2-953 to 2-955 and 2-958.

(b) The control authority shall director shall  
(i) investigate the subject of noxious weeds, (ii) require information and reports from any control authority as to the presence of noxious weeds and other information relative to noxious weeds and the control thereof in localities where such control authority has jurisdiction, (iii) cooperate with control authorities in carrying out other laws administered by him or her, (iv) cooperate with agencies of federal and state governments and other persons in carrying out his or her duties under the Noxious Weed Control Act, (v) with the consent of the Governor, conduct investigations outside this state to protect the interest of the agricultural industry of this state from noxious weeds not generally distributed therein, (vi) , with the consent of the federal agency involved, control noxious weeds on federal lands within this state, with or without reimbursement, when deemed by the control authority

director to be necessary to an effective weed control program, (vii) ; advise and confer as to the extent of noxious weed infestations and the methods determined best suited to the control thereof, (viii) ; call and attend meetings and conferences dealing with the subject of noxious weeds, (ix) ; disseminate information and conduct educational campaigns with respect to control of noxious weeds, (x) ; procure materials and equipment and employ personnel necessary to carry out the ~~control authority's~~ director's duties and responsibilities, ; and (xi) perform such other acts as may be necessary or appropriate to the administration of ~~sections 2-952 to 2-963~~ the act.

(c) When determined by the director that a control authority has substantively failed to carry out its duties and responsibilities as a control authority or has substantively failed to implement a county weed control program, the director shall instruct the control authority regarding the measures necessary to fulfill such duties and responsibilities. The director shall establish a reasonable date by which the control authority shall fulfill such duties and responsibilities. If the control authority fails or refuses to comply with instructions by such date, the Attorney General shall file an action as provided by law against the control authority for such failure or refusal.

(2)(a) Each control authority shall carry out the duties and responsibilities vested in it under ~~sections 2-952 to 2-963~~ the act with respect to land under its jurisdiction; in accordance with ~~ordinances, rules, and regulations prescribed by the control authority adopted and promulgated by the director.~~ Such duties shall include the establishment of a coordinated program for control of noxious weeds within the county.

(b) A control authority may cooperate with any person in carrying out its duties and responsibilities under ~~sections 2-952 to 2-963~~ the act.

(3)(a) Each county board shall employ one or more weed control superintendents. ~~Such~~ Each such superintendent shall, as a condition precedent to employment, be certified in writing by the federal Environmental Protection Agency as a commercial applicator under the Federal Insecticide, Fungicide, and Rodenticide Act, ~~to be qualified to detect and treat noxious weeds.~~ Each superintendent shall be bonded for such sum as the county board shall prescribe. The same person may be a weed control superintendent for more than one county. Such employment may be for such tenure

and at such rates of compensation and reimbursement for travel expenses as the county board may prescribe. Such superintendent shall be reimbursed for mileage at a rate equal to or greater than the rate provided in section 23-1112. ~~for county officers and employees-~~

(b) Under the direction of the control authority, it shall be the duty of every weed control superintendent to examine all land under the jurisdiction of the control authority for the purpose of determining whether ~~sections 2-952 to 2-963 the Noxious Weed Control Act and the rules and regulations adopted and promulgated by the director and the ordinances, rules, and regulations adopted and promulgated by the control authority pursuant to such sections~~ have been complied with. ~~He or she The weed control superintendent~~ shall: (i) Compile such data on infested areas and controlled areas and such other reports as the ~~director or the~~ control authority may require; (ii) consult and advise upon matters pertaining to the best and most practical methods of noxious weed control and render assistance and direction for the most effective control; (iii) investigate or aid in the investigation and prosecution of any violation of ~~sections 2-952 to 2-963 the act;~~ and (iv) perform such other duties as required by the control authority in the performance of its duties. Weed control superintendents shall cooperate and assist one another to the extent practicable and shall supervise the carrying out of the coordinated control program within the county.

(c) In cases involving counties in which municipalities have ordinances for weed control, the control authority may enter into agreements with municipal authorities for the enforcement of local weed ordinances and may follow collection procedures established by such ordinances. All money received shall be deposited in the weed control authority fund.

Sec. 7. That section 2-955, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-955. (1) Notices for control of noxious weeds shall consist of two kinds: General notices, as prescribed by rules and regulations adopted and promulgated by the director, which notices shall be on a form prescribed by the control authority director; and individual notices, which notices shall be on a form prescribed by this section. Failure to publish general weed notices or to serve individual notices as provided in this section shall not relieve any person from the necessity of full compliance with ~~sections 2-952 to~~

2-963 the Noxious Weed Control Act and ordinances, rules, and regulations thereunder adopted and promulgated pursuant to the act.

(a) General notice shall be published by each control authority, in one or more newspapers of general circulation throughout the area over which the control authority has jurisdiction, on or before May 1 of each year and at such other times as the director may require or the control authority may determine.

(b) Whenever any control authority finds it necessary to secure more prompt or definite control of weeds on particular land than is accomplished by the general published notice, it shall cause to be served individual notice upon the owner of record of such land at his or her last-known address, giving specific instructions and methods when and how certain named weeds are to be controlled. Such methods may include definite systems of tillage, cropping, management, and use of livestock.

Each control authority shall use one or both of the following forms for all individual notices: (i)

..... County Weed Control Authority

OFFICIAL NOTICE

Section 2-952, Reissue Revised Statutes of Nebraska, 1943, places an affirmative duty upon every person to control noxious weeds on land under such person's ownership or control. Information received by the control authority, including an onsite investigation by the county weed control superintendent or a deputy, indicated the existence of an uncontrolled noxious weed infestation on property owned by you at:

.....  
The noxious weed or weeds are ..... The method of control recommended by the control authority is as follows:

.....  
Other appropriate control methods are acceptable if approved by the county weed control superintendent.

Because the stage of growth of the noxious weed infestation on the above-specified property warrants immediate control, if such infestation remains uncontrolled after ten days from the date specified at the bottom of this notice, the control authority may enter upon such property for the purpose of taking the appropriate weed control measures. Costs for the control activities of the control authority shall be at the expense of the owner of the property and shall become a lien on the property as a special assessment levied on the date of control.



<u>Weed Control Superintendent</u>	<u>Dated</u>
.....	.....
-----	-----
<u>Weed Control Superintendent</u>	<u>Dated:</u>
<u>Chairperson of Weed Control Authority</u>	<u>Dated</u>
.....	.....

or (ii)

..... County Weed Control Authority

OFFICIAL NOTICE

Section 2-952, Reissue Revised Statutes of Nebraska, 1943, places an affirmative duty upon every person to control noxious weeds on land under such person's ownership or control. Information received by the control authority, including an onsite investigation by the county weed control superintendent or a deputy, indicates the existence of an uncontrolled noxious weed infestation on property owned by you at:

.....  
The noxious weed or weeds are ..... The method of control recommended by the control authority is as follows:

.....  
Other appropriate control methods are acceptable if approved by the county weed control superintendent. If, within fifteen days from the date specified at the bottom of this notice, the noxious weed infestation on such property, as specified above, has not been brought under control, you may, upon conviction, be subject to a fine of ~~\$50.00~~ \$100.00 per day for each day of noncompliance beginning on ..... up to a maximum of fifteen days of noncompliance (maximum \$750 \$1,500).

Upon request to the control authority, within fifteen days from the date specified at the bottom of this notice, you are entitled to a hearing before the control authority to challenge the existence of a noxious weed infestation on property owned by you at .....

<u>Weed Control Superintendent</u>	<u>Dated</u>
<u>Weed Control Superintendent</u>	<u>Dated.</u>
.....	.....
<u>Chairperson of Weed Control Authority</u>	<u>Dated-</u>

In all counties having a population of three hundred thousand or more inhabitants, the control authority may dispense with the individual notices and may publish general notices if published in one or more newspapers of general circulation throughout the area over which such control authority has jurisdiction.

Such notice shall be published weekly for four successive weeks prior to May 1 of each year or at such other times as the control authority deems necessary. In no event shall a fine be assessed against a landowner as prescribed in subdivision (3)(a) of this section, unless the control authority has caused individual notice to be served upon the landowner as specified in this subdivision.

(2) At the request of any owner served with an individual notice pursuant to subdivision (1)(b)(ii) of this section, the control authority shall hold an informal public hearing to allow such landowner an opportunity to be heard on the question of the existence of an uncontrolled noxious weed infestation on such landowner's property.

(3) Whenever the owner of the land on which noxious weeds are present has neglected or failed to control them as required pursuant to ~~sections 2-952 to 2-963~~ the act and any notice given pursuant to subsection (1) of this section, the control authority having jurisdiction shall proceed as follows:

(a) If, within fifteen days from the date specified on the notice required by subdivision (1)(b)(ii) of this section, the owner has not taken action to control the noxious weeds on the specified property and has not requested a hearing pursuant to subsection (2) of this section, the control authority shall notify the county attorney who shall proceed against such owner as prescribed in this subdivision. A person who is responsible for an infestation of noxious weeds on particular land under his or her ownership and who refuses or fails to control the weeds on the infested area within the time designated in the notice delivered by the control authority shall, upon conviction, be guilty of an infraction pursuant to sections 29-431 to 29-438, except that the penalty shall be a fine of fifty one hundred dollars per day for each day of violation up to a total of seven hundred fifty one thousand five hundred dollars for fifteen days of noncompliance; or

(b) If, within ten days from the date specified in the notice required by subdivision (1)(b)(i) of this section, the owner has not taken action to control the noxious weeds on the specified property and the stage of growth of such noxious weeds warrants immediate control to prevent spread of the infestation to neighboring property, the control authority may cause proper control methods to be used on such infested land, including necessary destruction of

growing crops, and shall advise the record owner of the cost incurred in connection with such operation. The cost of any such control shall be at the expense of the owner. In addition the control authority shall immediately cause notice to be filed of possible unpaid weed control assessments against the property upon which the control measures were used in the register of deeds office in the county where the property is located. If unpaid for two months, the control authority shall certify to the county treasurer the amount of such expense and such expense shall become a lien on the property upon which the control measures were taken as a special assessment levied on the date of control. The county treasurer shall add such expense to and it shall become and form a part of the taxes upon such land and shall bear interest at the same rate as taxes.

Nothing contained in this section shall be construed to limit satisfaction of the obligation imposed hereby in whole or in part by tax foreclosure proceedings. The expense may be collected by suit instituted for that purpose as a debt due the county or by any other or additional remedy otherwise available. Amounts collected under subdivision (3)(b) of this section shall be deposited to the noxious weed control fund of the control authority.

Sec. 8. That section 2-956, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-956. The cost of controlling noxious weeds on all land, including highways, roadways, streets, alleys, and rights-of-way, owned or controlled by a state department, agency, commission, or board or a political subdivision shall be paid by the state department, agency, commission, or board in control thereof or the political subdivision out of funds appropriated to the state department, agency, commission, or board or budgeted by the political subdivision for its use.

Sec. 9. That section 2-957, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-957. To prevent the dissemination of noxious weeds through any article, including machinery, equipment, plants, materials, and other things, the control authority director shall, from time to time, publish adopt and promulgate rules and regulations which shall include a list of noxious weeds which may be disseminated through articles and a list of articles capable of disseminating such weeds and shall designate

in such rules and regulations treatment of such articles as, in the control authority's director's opinion, would prevent such dissemination. Until any such article is treated in accordance with the applicable rules and regulations, it shall not be moved from such premises except under and in accordance with the written permission of the control authority having jurisdiction of the area in which such article is located, and the control authority may hold or prevent its movement from such premises. The movement of any such article which has not been so decontaminated, except in accordance with such written permission, may be stopped by the control authority having jurisdiction over the place in which such movement is taking place and further movement and disposition shall only be in accordance with such control authority's direction. Any further movement of any such article not in accordance with the control authority's direction shall constitute a Class IV misdemeanor.

Sec. 10. That section 2-958, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-958. (1) There is hereby authorized to be established a noxious weed control fund for each control authority, which fund shall be available for expenses authorized to be paid from such fund, including necessary expenses of the control authority in carrying out its duties and responsibilities under sections 2-952 to 2-963 the Noxious Weed Control Act. The weed control superintendent within the county shall (1) (a) ascertain and tabulate each year the approximate amount of land infested with noxious weeds and its location in the county, (2) (b) ascertain and prepare all information required by the county board in the preparation of the county budget, including actual and expected revenue from all sources, cash balances, expenditures, amounts proposed to be expended during the year, and working capital, and (3) (c) transmit such information tabulated by the control authority to the county board not later than June 1 of each year. On the basis of such information, the county board shall make a tax levy each year for the purpose of paying the expenses authorized to be paid from the noxious weed control fund. Funds so collected shall be deposited to such noxious weed control fund.

(2) There is hereby created the Noxious Weed Cash Fund. The fund shall consist of proceeds raised from fees imposed for the registration of economic poisons and earmarked for the fund pursuant to section

2-2603 and any reimbursement funds for control work done pursuant to subdivision (1)(b)(vi) of section 2-954. An amount from the General Fund matching the earmarked proceeds shall be appropriated for and deposited in the Noxious Weed Cash Fund annually. The Department of Agriculture shall request matching funds from the General Fund based upon the prior year's revenue earmarked for the Noxious Weed Cash Fund. The fund shall be administered and used by the director to maintain the noxious weed control program and for expenses directly related to the program. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 11. That section 2-961, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-961. Any The director, any control authority, any weed control superintendent, or anyone authorized thereby may enter upon all land under his, ~~or her, or its respective~~ jurisdiction for the purpose of performing the duties and exercising the powers under ~~sections 2-952 to 2-963~~ the rules and regulations adopted and promulgated by the director and the Noxious Weed Control Act, including the taking of specimens of weeds or other materials, without the consent of the person owning or controlling such land and without being subject to any action for trespass or damages, including damages for destruction of growing crops, if reasonable care is exercised.

Sec. 12. That section 2-962, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-962. All individual notices, service of which is provided for in ~~sections 2-952 to 2-963~~, the Noxious Weed Control Act, shall be in writing. Service of such notices shall be in the same manner as service of a summons in a civil action in the district court or by certified mail to the last-known address to be ascertained, if necessary, from the last tax list.

Sec. 13. That section 2-963, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-963. (1) Any person who intrudes upon any land under quarantine, ~~or~~ who moves or causes to be moved any article covered by section 2-957 except as provided therein in such section, who prevents or threatens to prevent entry upon land as provided in section 2-961, or who interferes with the carrying out

of the provisions of sections 2-952 to 2-963 the Noxious Weed Control Act shall be guilty of a Class IV misdemeanor in addition to any penalty imposed pursuant to section 2-955.

(2) It shall be the duty of the county attorney of the county in which any violation of section 2-955 or this section occurs, when notified of such violation by the county board or control authority, to cause appropriate proceedings to be instituted and pursued in the appropriate court without delay.

Sec. 14. Any person or public agency may institute legal action for the failure to comply with the Noxious Weed Control Act.

Sec. 15. The director shall convene an advisory committee to advise the director concerning his or her responsibilities under the noxious weed control program. Representatives from the Nebraska Weed Control Association, the leafy spurge task force, state or federal agencies actively concerned with the control of noxious weeds, the University of Nebraska Institute of Agriculture and Natural Resources, and cities and villages of this state, persons actively involved in agriculture, and others in the public and private sector may serve on such committee at the request of the director. If an advisory committee is convened, members shall not receive any reimbursement for expenses.

Sec. 16. That section 2-2603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2603. (1) Every economic poison which is distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered in the office of the director, and such registration shall be renewed annually. Products which have the same formula, which are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison and additional names and labels shall be added by supplemental statements during the current period of registration. The registrant shall file with the director a statement ~~including which~~ includes:

- (a) The name and address of the registrant and the name and address of the person whose name will appear on the label; if other than the registrant;
- (b) The name of the economic poison;

(c) A complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including directions for use; and

(d) If requested by the director a full description of the tests made and the results thereof upon which the claims are based.

In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the economic poison was registered or last reregistered.

(2)(a) The registrant shall pay an annual fee of ~~ten~~ forty dollars for each economic poison registered. The fee shall be paid by January 1 of the year of registration. There shall be a late fee of five dollars for each fee collected after such date. All fees collected shall be deposited in the state treasury and by remitted to the State Treasurer credited for credit as follows: (i) Thirty dollars of such fee to the Noxious Weed Cash Fund; and (ii) ten dollars to the Economic Poison Administration Cash Fund which is hereby created.

(b) In addition to such fees, all other money received under the provisions of sections 2-2601 to 2-2611 shall be remitted to the State Treasurer for credit and by the State Treasurer credited to the Economic Poison Administration Cash Fund. Such fund shall be used by the Department of Agriculture to aid in defraying the expenses of administering sections 2-2601 to 2-2611. Any money in the Economic Poison Administration Cash Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269 72-1276.

(3) The director, whenever he or she deems it necessary in the administration of sections 2-2601 to 2-2611, may require the submission of the complete formula of any economic poison. If it appears to the director that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 2-2602, he or she shall register the article.

(4) If it does not appear to the director that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of sections 2-2601 to 2-2611, he or she shall notify the registrant of the manner in which the article, labeling, or other material required to be

submitted fails to comply with sections 2-2601 to 2-2611 so as to afford the registrant an opportunity to make the necessary corrections. In order to protect the public, the director, on his or her own motion, may at any time cancel the registration of an economic poison for just cause.

(5) The director may, whenever he or she deems it necessary for protection of public health, after public hearing, restrict registration of certain economic poisons to specific usages by pest control professionals.

(6) Notwithstanding any other provision of sections 2-2601 to 2-2611, registration is not required in the case of an economic poison shipped from one plant within this state to another plant within this state operated by the same person.

Sec. 17. This act shall become operative on November 1, 1989.

Sec. 18. That original sections 2-946.02, 2-952, 2-953, 2-955, 2-956, 2-957, 2-958, 2-961, 2-962, 2-963, and 2-2603, Reissue Revised Statutes of Nebraska, 1943, and section 2-954, Revised Statutes Supplement, 1988, are repealed.