

WILDLIFE SERVICES STUDY - BACKGROUND MEMORANDUM

Section 6 of House Bill No. 1009 ([Appendix A](#)) directs the Legislative Management to study the cooperative agreement between the Agriculture Commissioner and the United States Department of Agriculture Wildlife Services program. The bill was the appropriations bill for the Agriculture Commissioner. The study must include:

1. A review of current program funding sources.
2. A review of wildlife damage control programs in other states, including South Dakota.

The legislative history reveals concern over funding sources as expressed by the State Auditor in a performance audit report on May 9, 2008. The House Appropriations Committee members focused on the aerial hunting activities of Wildlife Services. The concern was over the amount of money being provided to the federal government for which there was not the return of adequate services or accounting for services. One option was to review South Dakota's program, which is administered by the South Dakota Department of Game, Fish and Parks.

Testimony from agriculture producers supported increased funding due to the high number of coyotes and increased costs for fuel, maintenance, and vehicle replacement. In addition, the heavy snow had created a hardship on trappers and increased domestic livestock predation due to easier access to prey.

WILDLIFE SERVICES PROGRAM

Because of the recent performance audit, most of this portion of the memorandum is updated information from the performance audit report.

The North Dakota Wildlife Services program is a cooperative effort of state and federal agencies to provide management of wildlife in situations impacting livestock producers, farmers, homeowners, airports, and public land managers. Authority for the program comes from the Animal Damage Control Act of March 2, 1931 (7 U.S.C. 426, 426b), and the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1988 (7 U.S.C. 426c). The program is administered by the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Wildlife Services. A cooperative service agreement between APHIS and the North Dakota Department of Agriculture is entered each biennium ([Appendix B](#)). A separate cooperative service agreement is entered each biennium between the North Dakota Department of Agriculture and the North Dakota Game and Fish Department which relates to funding of the program ([Appendix C](#)).

Pursuant to North Dakota Century Code Section 4-01-17.1, the Agriculture Commissioner may cooperate with APHIS or other appropriate federal agencies in the control and destruction of fur-bearers, including coyotes, wolves, bobcats, and foxes that are

injurious to livestock, poultry, and big and small game; injurious field rodents; big game threatening human health or domestic livestock; and birds causing crop damage, substantial economic loss or threats to human health. Although the control and destruction must be approved by the Game and Fish Department, the Agriculture Commissioner may enter agreements with the Game and Fish Department and federal agencies for methods of control and destruction, supervision, and the use and expenditure of funds.

While the program has had various names and has been placed in different federal agencies, the annual reports prepared by the federal government on the program in North Dakota identified minimizing/reducing economic loss and/or minimizing damage caused by wildlife as a primary purpose. The following brief outline of the history of the program in the state is taken from annual reports:

- 1949 - The Predator Control program was administered by the United States Fish and Wildlife Service, Bureau of Sports Fisheries and Wildlife Division, and was providing services for the district of Nebraska, North Dakota, and South Dakota with the main office in Mitchell, South Dakota.
- 1961 - In February North Dakota became a separate district.
- 1966 - The branch of Predator and Rodent Control reorganized as the Division of Wildlife Services which included Animal Control and functions of Wildlife Enhancement and Pesticides Surveillance.
- 1969 - Wetland enhancement activities became an operational branch of the Division of Wildlife Services.
- 1974 - Administration of the program went from the Bureau of Sports Fisheries and Wildlife Division to the Department of Interior, United States Fish and Wildlife Service; for the first time, all funding for the program was from federal and state appropriations (previously counties and other entities provided funding).
- 1985 - The Animal Damage Control program was officially transferred from the Department of Interior, United States Fish and Wildlife Service, to the Department of Agriculture, Animal and Plant Health Inspection Service.

The Wildlife Services program is administered and operated by APHIS. The North Dakota Department of Agriculture has a cooperative service agreement with this entity for the program and is responsible for the primary monitoring of the program by the state. However, while the primary monitoring responsibility is with this state entity, the primary state funding source is the North Dakota Game and Fish Department. The Game and Fish Department relies on the Department of Agriculture to monitor the use of the funds being

provided and, as stated by the report, has very little if any input as to how the funds are to be used. The report recommended a review of the monitoring and funding of the program.

State funding for the program is identified in the table below:

Biennium	Game and Fish (Special Funds)	Department of Agriculture (General Fund)	Total
2003-05 ¹	\$550,000	\$250,000	\$800,000
2005-07 ²	\$680,000	\$250,000	\$930,000
2007-09 ³	\$680,000	\$240,000	\$920,000
2009-11 ³	\$768,000	\$298,600	\$1,066,600

¹Expenditure amount.
²Expenditure amount, including emergency appropriation from the 2007 Legislative Assembly.
³Appropriated amount.

According to the cooperative service agreement between APHIS and the Department of Agriculture, state funds are to be used to reimburse APHIS for expenditures of the Wildlife Services program. Expenditures listed in the cooperative service agreement include salaries for 10 wildlife specialists and 1 pilot (or as many personnel as dictated by funding levels and need), miscellaneous expenses for the repair of equipment and supplies needed in performing official duties, and costs of vehicle and aircraft operations. Total amounts are identified for the following categories: salaries, vehicle fuel/oil, vehicle repairs, vehicle tires, aircraft fuel, aircraft labor, aircraft parts, aircraft hangar rent, and miscellaneous vehicle/ATV.

Federal funding for the Wildlife Services program was obtained from the APHIS regional office. Federal funds are made available every federal fiscal year (October 1 through September 30). Federal funding of the program is to be used to pay for federal retirement, insurance, and health care programs for the wildlife specialists and pilot. Federal funding is also to be used to replace vehicles used in the operation of the wildlife damage management program. Additional federal funding is provided to the APHIS office in Bismarck for other projects. Federal funding for the program is identified in the following table:

Federal Fiscal Year	Wildlife Services Program North Dakota	Blackbird Directive	Cattail Directive
2003	\$399,790	\$320,201	\$87,011
2004	\$387,136	\$318,603	\$86,577
2005	\$612,913	\$285,614	\$77,612
2006	\$624,360	\$303,121	\$78,041
2007	\$635,614	\$314,873	\$78,896

¹Federal funding can be used by the APHIS office in Bismarck for activities in both North Dakota and South Dakota.

As a result of the performance audit, the following 11 recommendations were made by the State Auditor:

1. The Department of Agriculture pay salaries of the Wildlife Services' field specialists and other cost(s) which can be verified in a timely and efficient manner.
2. The Department of Agriculture review the time of the pilot charged to the Wildlife Services program and determine what percentage of the pilot's salary will be paid by the state.
3. The Department of Agriculture require travel time of the Wildlife Services' field specialists be adequately documented.
4. The Department of Agriculture monitor field specialists' time charged to office, bad weather, miscellaneous, or similar categories. Appropriate action should be taken if time charged to these categories is excessive.
5. The Department of Agriculture periodically verify the Wildlife Services program billed amounts are adequately supported and reasonable.
6. The Department of Agriculture require the Wildlife Services' field specialists dedicate a certain amount of time in the fall to the state blackbird problem.
7. The Department of Agriculture improve monitoring of cooperative service agreements to ensure compliance with requirements.
8. The Department of Agriculture ensure appropriate changes are made to the cooperative service agreements to address recommendations included in this audit report as well as to:
 - a. Approve or require information be provided for salary increases of field specialists prior to being effective;
 - b. Establish performance measures to evaluate the program;
 - c. Require only necessary reports or information regarding the program; and
 - d. Identify if, when, and where state funds are to be used for issues arising in urban areas.
9. The Department of Agriculture, with assistance from the Attorney General's office, review North Dakota Century Code requirements related to the Wildlife Services program. Appropriate action should be taken to modify or clarify sections to make requirements clear and up to date.
10. The Department of Agriculture and the Game and Fish Department formally identify advantages and disadvantages for the current monitoring and funding of the Wildlife Services program. A determination should be made as to whether the primary monitoring and/or primary funding of the program need changing.

11. The Department of Agriculture obtain necessary federal budget and expenditure data for monitoring and budgeting purposes.

In response to Recommendation No. 9, the Legislative Assembly enacted House Bill No. 1125 (2009). This bill authorized the Agriculture Commissioner to cooperate with APHIS in controlling and destroying specifically listed animals. The bill broadened the authorization to include not just coyotes, wolves, bobcats, and foxes, but all furbearers; not just injurious field rodents in rural areas, but all such rodents; and not just certain nongame species of birds that cause crop damage or substantial economic loss, but all birds that cause crop damage or substantial economic loss or which threaten human health. In addition, the bill extended the authorization to control and destroy big game that threatens human health or domestic livestock.

In addition, since the performance audit and the 2009 legislative session, a new workplan between the Department of Agriculture, Game and Fish Department, and APHIS has been entered by the parties ([Appendix D](#)).

SOUTH DAKOTA

South Dakota is the only state to administer Wildlife Services programs through a natural resources agency, for example and for comparison, the North Dakota Game and Fish Department. Some states have a cooperative effort, for example, North Dakota, but that cooperative effort is with an agriculture-related agency.

In the mid-1970s, all states were given the option of administering a predator control program. Several states took the option, all of which returned to federal administration within five years, except for South Dakota. In 1974 the South Dakota Department of Game, Fish and Parks accepted the option of responsibility for some federal Wildlife Services duties. Some duties stayed with the federal Wildlife Services. For example, blackbird control is a federal responsibility. With the duties came federal funding to the state. In the beginning, all that was required by the state to maintain the funding was an annual report.

The money provided to South Dakota was earmarked. The federal funding portion was very close to 100 percent in the early years, dropping to

30 percent by 2001. Although the state received the same amount of funding each year--\$300,000--as grant-in-aid funding, inflation has affected what could be purchased with the funding. From 2002 through 2006, South Dakota received earmarked funds equaling the grant-in-aid funds. In 2007 Congress eliminated earmarked funding. However, in 2007 some funding--\$277,000--was provided within the general operating budget of Wildlife Services.

In 2008 South Dakota and Wildlife Services entered a cooperative agreement and Wildlife Services funded the South Dakota predator control program through operational program funding, a more protected source of funding. In federal fiscal year 2008, an estimated \$593,000 was appropriated for predator control in South Dakota and the South Dakota Department of Game, Fish and Parks received \$402,000 of those funds. In fiscal year 2009, \$426,000 was appropriated for South Dakota. However, the federal Wildlife Services now administers and pays for the aerial component of the program. As such, these expenses are paid first and it is expected the South Dakota Department of Game, Fish and Parks will receive approximately \$35,000.

The state of South Dakota otherwise funds Wildlife Services programs through a head tax on cattle and sheep. The tax is charged to each county, which in turn charges each property owner in the county based on livestock in the county. This money is matched on a 2-to-1 basis by the South Dakota Department of Game, Fish and Parks for total funding of approximately \$900,000. In addition, South Dakota has a \$5 surcharge on hunting licenses, of which \$2.50 goes to rancher depredation complaints.

SUGGESTED STUDY APPROACH

Because of the recent concerns expressed regarding state funds being used by Wildlife Services, the committee may wish to monitor changes in response to recommendations of the performance audit report and legislative concerns. If issues remain as to the operation of Wildlife Services, the committee may address those issues. In addressing those issues, it may be useful to receive testimony on other states' programs as they relate to those issues.

ATTACH:4