

77-15-1. [Cooperation with United States; appropriation.]

That the state of New Mexico will cooperate with the bureau of biological survey of the United States, department of agriculture, in destroying predatory wild animals and rodent pests in the interest of the protection of crops and livestock and the improvement of range conditions. The work of destroying such predatory wild animals and rodent pests [is] to be carried on under the direction of the bureau of biological survey. There is hereby appropriated for the eighth fiscal year and each year thereafter until otherwise provided by law, the sum of twenty-five thousand dollars [(\$25,000)] for paying the state's share of the cost of such operations as may be provided in the cooperative agreement hereinafter mentioned: provided, that not less than twenty-five thousand dollars [(\$25,000)] be furnished for such cooperative operations each year by the federal government.

History: Laws 1919, ch. 119, § 1; C.S. 1929, § 4-1301; 1941 Comp., § 49-1701; 1953 Comp., § 47-16-1.

Cross references. — For Taylor Grazing Act funds for control of rodents and predatory animals, see 6-11-6 NMSA 1978.

Bracketed material. — The bracketed material in this section was inserted by the compiler. It was not enacted by the legislature and is not part of the law.

Bureau of biological survey. — The bureau of biological survey, referred to near the beginning of the section, was transferred from the department of agriculture to the department of interior by reorganization plan No. II, Part 1, § 4(f), May 9, 1939, and was consolidated with the bureau of fisheries, the combined agency to be known as the fish and wildlife service, by reorganization plan No. III, § 3, April 2, 1940. The fish and wildlife service was reorganized by act of August 8, 1956, ch. 1036, § 3, 70 Stat. 1120. See 16 U.S.C. § 742b.

ANNOTATION

Legislative intent. — The legislature, in enacting Laws 1919, ch. 119 (77-15-1 to 77-15-5 NMSA 1978), did not intend that the owners of gardens and other property should be at the mercy of the predatory dogs and other animals, even though they had become domesticated. *State v. Anderson*, 40 N.M. 173, 56 P.2d 1134 (1936).

Source of appropriations. — The appropriation hereunder consists of such proceeds as may be derived from sale of furs, skins and specimens, plus a sufficient amount from the funds not otherwise appropriated to make up the \$25,000. However, expenditures from this appropriation are limited to the sum of \$25,000 for each fiscal year. 1931-32 Op. Att'y Gen. No. 89.

State personnel board without authority. — Since the fish and wildlife service is in fact a federal agency and employees working in the joint programs are subject to hiring and dismissal by federal officers, the state personnel board has no duties or control over such program or its employees. 1963-64 Op. Att'y Gen. No. 63-109.

Employees of fish and wildlife service are not employees of state of New Mexico for purposes of the Public Employees Retirement Act (10-11-1 to 10-11-38 NMSA 1978) even though they are paid by state funds. 1957-58 Op. Att'y Gen. No. 57-231.

However employment under cooperative agreement deemed creditable. — Employment under the cooperative agreement of July 1, 1923 between the state and the United States for rodent and predator control may be credited toward public employee's retirement. 1957-58 Op. Att'y Gen. No. 58-100.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 4 Am. Jur. 2d Animals § 1 et seq.; 3 Am. Jur. 2d Agriculture § 42 et seq.

3 C.J.S. Agriculture § 83 et seq.; 3A C.J.S. Animals § 1 et seq.

77-15-2. [Agreement for cooperative work.]

The president of the New Mexico college of agriculture and mechanic arts [New Mexico state university] is hereby authorized and directed to execute a cooperative agreement with the secretary of agriculture or the bureau of biological survey, for carrying on such cooperative work in such manner and under such regulations as may be stated in said agreement.

History: Laws 1919, ch. 119, § 2; C.S. 1929, § 4-1302; 1941 Comp., § 49-1702; 1953 Comp., § 47-16-2.

Compiler's notes. — Laws 1949, ch. 57, § 3, authorizes the president of the New Mexico college of agriculture and mechanic arts (New Mexico state university) to execute a cooperative agreement with an official of the United States fish and wildlife service to control predatory animals and rodents. For similar provisions, see Laws 1929, ch. 153, § 2; Laws 1931, ch. 57, § 2; Laws 1939, ch. 26, § 2 and Laws 1941, ch. 44, § 2.

See also Laws 1945, ch. 57, § 3.

New Mexico state university. — N.M. Const., art. XII, § 11, as repealed and reenacted November 8, 1960, changed the name of the New Mexico college of agriculture and mechanic arts, referred to in this section, to New Mexico state university. The bracketed material was not enacted by the legislature and is not part of the law.

Bureau of biological survey. — See same catchline in notes to 77-15-1 NMSA 1978.

77-15-2.1. State-managed predator control program continued; creation of permanent state-managed rodent pest control program.

The state-managed predator control program, authorized by Subsection K of Section 4 of Chapter 155 of Laws 1980, is continued on a permanent basis and a permanent state-managed rodent pest control program is established within the New Mexico department of agriculture, subject to the availability of funds.

History: Laws 1981, ch. 20, § 1.

Compiler's notes. — Laws 1980, ch. 155, § 4, Subsection K, referred to in this section, provides that the department of agriculture is authorized to establish and operate a state-managed predator control program, notwithstanding the provisions of Section 77-15-1 NMSA 1978.

77-15-3. Apportionment of appropriation; sale of furs and specimens; bounty.

The funds hereby appropriated shall be apportioned for predatory animal destruction and rodent pest repression in such amounts as may be stated in such agreement or in the absence of such agreement as may be determined by the president of New Mexico state university, who shall forward a certificate of such apportionment to the department of finance and administration and a duplicate thereof to the state treasurer, who shall thereupon credit the funds available for the said appropriations to the predatory animal fund and the rodent pest repression fund respectively as stated in said certificate. Said funds shall be expended in amounts as authorized by said president and disbursed by warrants issued by the secretary of finance and administration upon itemized vouchers or payrolls certified by the predatory animal inspector of the bureau of biological survey or by the state rodent inspector or the assistant of the biological survey in charge of rodent pest repression, respectively.

All furs, skins and specimens taken by hunters or trappers paid from the state funds shall be sold upon sealed bids, after advertisement as may be prescribed by the president of said university, and the proceeds of such sales shall be paid to the state treasurer to be credited and added to said predatory animal fund; provided, that any specimens so taken may be presented free of charge to the New Mexico museum or any state institution.

No bounty shall be collected from any county for animals taken by hunters or trappers operating under such agreements, and scalps of animals so taken shall be destroyed or cancelled or marked in such manner that they cannot be used by any other person for collecting of bounty.

History: Laws 1919, ch. 119, § 3; C.S. 1929, § 4-1303; 1941 Comp., § 49-1703; 1953 Comp., § 47-16-3; Laws 1977, ch. 247, § 158.

The 1977 amendment substituted, in the first paragraph, "New Mexico state university" for "said college" and "department of finance and administration" for "state auditor" in the first sentence and "secretary of finance and administration" for "state auditor" in the second sentence and, in the second paragraph, "university" for "college" and "provided" for "Provided."

Compiler's notes. — Laws 1949, ch. 57, § 4, provides for the control of expenditures under the act by the president of New Mexico college of agriculture and mechanic arts (New Mexico state university), for the sale of furs taken by persons under the act and for a \$50,000 limit on expenditures. For similar provisions, see Laws 1929, ch. 153, § 3; Laws 1931, ch. 57, § 3; Laws 1939, ch. 26, § 3 and Laws 1941, ch. 44, § 3.

See also Laws 1945, ch. 57, § 4.

Bureau of biological survey. — See same catchline in notes to 77-15-1 NMSA 1978.

ANNOTATION

Payment of earned bounties. — Where wild animals had been killed and evidence thereof submitted, in contemplation of the bounty provided by Code 1915, §§ 1330, 1333, and certificates of indebtedness thereof had been issued, the repeal of such sections by Laws 1923, ch. 52, § 1 was inoperative as to persons who had already earned the bounty. *Hayner v. Board of Comm'rs*, 29 N.M. 311, 222 P. 657 (1924).

77-15-4. [Payment of cost of rodent pest repression.]

On lands which are a part of any national forest, Indian reservation or other national reserve, rodent pest repression is to be carried on at the expense of the federal government. On state lands leased or sold under contract for which the purchaser has not yet obtained the title, rodent pest repression is to be prosecuted on a cooperative basis with such lessee or purchaser on such terms as may be agreed upon. All leases hereafter issued for state lands, and all contracts hereafter made for the sale of the state lands, shall provide that the lessee or purchaser shall be obligated to destroy the rodent pests upon such lands and upon failure to do so to pay the cost of rodent pest repression upon such lands by the state rodent force or the cooperative force provided for by this act [77-15-1 to 77-15-5 NMSA 1978], which cost shall not exceed ten cents [(\$.10)] per acre for the infested areas of such lands.

Upon public lands of the United States or of the state, not included in reservations or covered by lease or contract, rodent pest repression shall be carried on and paid for out of the state and federal cooperative funds available as hereinbefore mentioned.

Upon privately owned lands rodent pest repression under this act shall be based on voluntary cooperation of owners, lessees or occupants; poison materials or prepared poison grain to be supplied to such cooperators at actual cost, payable to the state of New Mexico, and the moneys so received shall revert and be added to the said rodent pest fund.

Landowners may arrange with the state rodent inspector or assistant of the biological survey in charge of rodent pest repression in any part of the state for the destruction of rodents on their lands, under written agreement; provided, that the state shall be reimbursed for the actual cost of such treatment to be paid into the state treasury within thirty days after the presentation of the itemized account therefor by the foreman or person in charge of such work; and if not so paid such amount shall be a lien upon the said land. Provided, the amount of such lien shall not exceed ten cents [(\$.10)] per acre for the infested areas treated.

History: Laws 1919, ch. 119, § 4; C.S. 1929, § 4-1304; 1941 Comp., § 49-1704; 1953 Comp., § 47-16-4.

Assistant of the biological survey. — See catchline, "Bureau of biological survey," in notes to 77-15-1 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42 et seq.

3 C.J.S. Agriculture § 83.

77-15-5. [State rodent inspector; salary; destruction of prairie dogs; cost; interfering with inspector; penalty.]

A state rodent inspector shall be appointed by the president of the New Mexico college of agriculture and mechanic arts [New Mexico state university], such appointment to be made from a list of names furnished by the bureau of biological survey; said state rodent inspector shall be at all times subject to and under the direction of the bureau of biological survey. He shall be paid a salary not exceeding one hundred fifty dollars [(\$150)] per month and actual and necessary traveling expenses while performing the duties of his office; such salary and expenses to be paid out of said rodent pest fund in the manner provided in Section 3 [77-15-3 NMSA 1978] of this act.

In case any owner of land infested by prairie dogs shall fail, after written notice from the state rodent inspector served upon such owner in person or mailed to his last known post-office address, to destroy the prairie dogs in such infested areas or to enter into a cooperative agreement as provided by the preceding section to have the same destroyed, or in case the owner is unknown to the county assessor, it shall be the duty of the state rodent inspector, or some member of the cooperative force designated by him, and such inspector or member of said force is hereby authorized, to enter upon said lands and to destroy the prairie dogs therein at the expense of the owner of said lands; which expense shall be a lien upon said lands; provided, that such expense chargeable to the owner or against land of unknown owners shall not exceed ten cents [(\$10)] per acre for the infested areas; provided further, that in case any tract of land not exceeding one hundred and sixty acres actually owned and occupied as a home by a citizen of this state is infested with prairie dogs and such owner can show to the satisfaction of the state rodent inspector or assistant in charge of the work that he or she is financially unable to pay the cost of destroying the prairie dogs therein, such cost shall be borne by the state and paid out of the rodent pest repression fund.

The state rodent inspector, or the person so designated by him, shall keep an itemized account of the actual expense of materials and labor and necessary traveling or other expense in connection with destroying the rodent pests upon any such lands under such cooperative agreement, or of destroying such prairie dogs in the absence of such agreement, and if the owner shall fail to pay the same within thirty days after notice to him in person or by mail to his last known post-office address, the amount of such costs and expenses, not exceeding ten cents [(\$10)] per acre, shall be certified to the county assessor of the county in which such lands are situate, together with an accurate description of the land by government subdivisions or other descriptions sufficient to identify the same, and a statement of the number of acres of said land so infested and treated. It shall be the duty of the county commissioners of said county at the time and in the manner for levying other taxes, to make a special levy upon the lands so

described sufficient to pay the amount of such costs and expenses, not exceeding ten cents [(\$.10)] per acre, of such infested land, together with a penalty of five percent and interest at the rate of one per centum per month from the date of such certificate, which tax shall be entered upon the assessment roll assessed against the owner of said lands, or assessed to unknown owners, as the case may be, and shall be collected at the time and in the manner provided for the collection of other taxes upon said tax roll, and transmitted to the state treasurer without the deduction of any percentage thereof and credited to the state rodent pest fund.

Should there be any land infested with prairie dogs in any county, the owner of which land is unknown, and such land is assessed in such county against unknown owners upon the tax roll for the then current year, it shall be the duty of the state rodent inspector to cause the prairie dogs therein to be destroyed, and the expense thereof, not exceeding ten cents [(\$.10)] per acre of infested areas, shall be certified to the county commissioners, levied upon said land and assessed, collected and paid into the state treasury to the credit of the rodent fund as hereinbefore provided.

Any person who shall interfere with the said rodent inspector in the discharge of his duties as herein provided shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred [(\$100)] nor more than five hundred dollars [(\$500)] for each offense; provided, that in case of any small tract of land not exceeding one hundred and sixty acres in extent, actually occupied as a home by any resident of the state of New Mexico, who is able to show to the satisfaction of the state rodent inspector or assistant of the biological survey, in charge of said work, that he or she is not financially able to pay the costs of clearing said land of the prairie dogs therein, such cost shall be borne by the state and paid out of said rodent pest repression fund.

History: Laws 1919, ch. 119, § 5; C.S. 1929, § 4-1305; 1941 Comp., § 49-1705; 1953 Comp., § 47-16-5.

New Mexico state university. — See same catchline in notes to 77-15-2 NMSA 1978.

Bureau of biological survey. — See same catchline in notes to 77-15-1 NMSA 1978.

ANNOTATION

In exterminating rodent pests on private lands, the actual expense must be determined. 1923-24 Op. Att'y Gen. No. 71.

And levy not contingent upon effective work. — It is the duty of the board of county commissioners under this section to make the required levy, although work done is not effective. It is the work itself for which payment is to be made, and such payment is not contingent upon the successful outcome of the work. 1937-38 Op. Att'y Gen. No. 148.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42 et seq.

3 C.J.S. Agriculture §§ 83 to 87.