

## Opinion No. 47-5104

November 20, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. W. E. Knott, Jr., Exe. Secy., Commission for Predatory Animal Control, Albuquerque, New Mexico.

{\*110} We wish to acknowledge your inquiry of several days ago regarding whether or not the Commission for Predator Control could use monies provided for by Chapter 134, Laws of 1945 for the payment of bounties in one county, although the monies may have been raised {\*111} by a special tax levy on sheep and goats in another county, or obtained under the Taylor Grazing Act, as hereinafter explained.

It would perhaps be well to look and see just how the Predator Control Fund is raised.

By Section 8 of the aforementioned act, the county commissioners of each county are directed to levy a special tax at a rate not to exceed four mills on each dollar of the assessed value of all sheep and goats in each county. Such special taxes are to be collected in the several counties and paid to the State Treasurer in the same manner provided by law for the collection and payment to such Treasurer of state taxes. Said monies to be credited to "The Predator Control Fund."

Section 9 of said Act provides for an appropriation from the general fund of \$ 50,000 for each of the 34th, 35th, 36th and 37th fiscal years for the use of the Commission for Predator Control.

Section 9 of the aforementioned act also provides other funds for said program, to-wit:

"There is hereby appropriated for the use of the Commission for predator control all of the funds derived from the taxes in Section 8 of this Act provided, together also with twenty-five (25%) per cent of the monies received by the Treasurer of New Mexico under the provisions of "The Taylor Grazing Act." \* \* \* Provided, nevertheless, that all funds so derived from the Treasurer of the U. S. shall be used by the Commission for Predator Control in the county or counties as prescribed and limited in the above specified Act of Congress."

Section 315-I, Title 43, U.S.C.A., provides that moneys raised under the Taylor Grazing Act are to be expended as the State Legislature of the State may prescribe for the benefit of the county or counties in which the grazing districts, or the lands producing such monies, are situated; provided, that if any grazing district or any leased tract is in more than one state or county, the distributive share to each from the proceeds of said district or leased tract shall be proportional to its area in said districts or leased tract.

In Section 1 of the Predatory Animal Control Act we find the following language, to-wit:

"It is the purpose of this act to provide an adequate and flexible system for the payment of bounties in order to further predator control throughout the state."

Section 2 of said Act creates a State Commission of Predator Control consisting of four members.

Under Section 7 of the Act said Commission is given the power to establish districts in which bounties shall be paid and to promulgate rules and regulations for carrying out the provisions of the Act. The Commission is likewise given general control over the disbursement of all monies appropriated or received for carrying into effect the purposes of this act.

It is quite evident that the legislature, in passing this act setting up such a state commission, had in mind a state program for predatory animal control and not merely a program for each particular county; otherwise they would not have authorized the setting up of districts.

It is apparent that a coyote, on the verge of crossing from Otero to Lincoln County, that is killed just before getting into Lincoln County, results in as great a benefit to the Lincoln County farmer or rancher as it does to the farmer or rancher living in Otero County.

It is therefore my opinion that monies raised by special tax levy according to the provisions of Section 8 of said act and deposited with the State Treasurer in "The Predator {\*112} Control Fund" may be used by said Commission, if their rules and regulations so provide for the paying of bounties, even though sums are paid in excess of monies actually collected in a particular county. Of course, the \$ 50,000 appropriated each year may likewise be used for the paying of bounties in any county within the state.

However, as Taylor Grazing Act monies under Act of Congress are to be credited and used in the county where raised, monies credited to "The Predator Control Fund" from this source should be expended only in the particular county.

Trusting the aforementioned satisfies your inquiry, I am

By ROBERT V. WOLLARD,

Asst. Atty. General