
Wisconsin Legislative Council

STUDY COMMITTEE MEMO



Memo No. 2

TO: MEMBERS OF THE STUDY COMMITTEE ON SANDHILL CRANES

FROM: Ethan Lauer, Senior Staff Attorney, and Benjamin Kranner, Senior Staff Analyst

RE: Options for Committee Discussion

DATE: November 5, 2024

Based on topics discussed by the members of the Study Committee on Sandhill Cranes at prior meetings, Chair Tittl and other committee members have requested the preparation of preliminary bill drafts and a letter for the committee to discuss during its November 13, 2024 meeting.

This memo describes the bill drafts and the letter, and enumerates questions the study committee may wish to discuss at the meeting. The study committee may choose to revise the preliminary bill drafts, and may consider whether to recommend the proposals to the Joint Legislative Council for introduction in the 2025-26 legislative session. The committee may also discuss the contents of the letter and whether the chair and vice chair should send it on behalf of the committee.

ABATEMENT ASSISTANCE FOR CORN PRODUCERS (LRB-0457/P1 AND LRB-0604/P1)

Background

At its second and third meetings, the committee heard presentations identifying anthraquinone (AQ), commonly marketed under the brand name Avipel, as the most effective nonlethal deterrent to crane predation on newly planted corn crops. The committee was told that AQ costs a producer between \$10 and \$15 per acre of treated seed. Of the approximately four million acres of corn planted in Wisconsin, research conducted by Public Member Lacy and others suggests that approximately three million acres are in locations vulnerable to depredation from cranes.^{1,2} If farmers treated all this acreage with AQ, the total cost would be approximately \$30 million to \$45 million.

LRB-0457/P1 and LRB-0604/P1 are bill drafts that have been prepared to aid the study committee's discussion of options relating to abatement assistance for corn producers.

¹ National Agricultural Statistics Service, *Acreage*, U.S. Department of Agriculture (June 28, 2024), <https://downloads.usda.library.cornell.edu/usda-esmis/files/j098zb09z/b2775k600/dv141h86n/acrg0624.pdf>.

² Sarah Schramm, Anne Lacy, Eileen Cullen, and Jeb Barzen, *Protect your corn from cranes*, University of Wisconsin-Extension, Cooperative Extension, (2010), <https://savingcranes.org/wp-content/uploads/2023/06/A3897.pdf>.

LRB-0457/P1

At the suggestion of Chair Tittl, LRB-0457/P1 authorizes the Department of Natural Resources (DNR) to reimburse a producer for costs incurred in obtaining “anti-crane seed coating,” which is defined as a nonlethal treatment that is applied to corn or corn seed and that repels birds. In order to be eligible, a producer must demonstrate to DNR that the producer experienced sandhill crane predation to a corn crop during the previous growing season. The bill draft creates an appropriation account from which DNR may issue the reimbursements. It does not, however, appropriate funds for this purpose. It would rely on the Legislature to appropriate funds to this account through separate legislation (e.g., the biennial budget bill).

LRB-0604/P1

At the suggestion of Public Member Mickelson,³ LRB-0604/P1 authorizes the Department of Agriculture, Trade and Consumer Protection (DATCP) to issue a rebate to a producer for up to 50 percent of the cost of obtaining a nontoxic coating to discourage birds from consuming seeds. A rebate is capped at no more than \$2,000 per applicant, per planting season, and funds under the bill draft are distributed on a first-come, first-served basis. Only a person who plants corn for the purpose of producing an income or livelihood is eligible for assistance under the bill draft. To obtain assistance, an applicant must provide proof of purchase and complete an application within 90 days of purchase.

Like LRB-0457/P1, LRB-0604/P1 creates an appropriation account, but does not appropriate funds for the program.

The bill draft also directs DATCP to compile an annual report detailing the number of rebates issued, the total amount disbursed, and impact of the program on crop yields. This report is to be provided to the appropriate standing committees of the Legislature no later than December 31 of each year. The program would sunset after three years.

Questions for Discussion

The study committee could discuss the following questions relating to these bill drafts and this topic:

1. Both bill drafts propose general purpose revenue funding. Does the committee wish to create a specific revenue source instead? Ideas that have been raised during committee deliberations include a sandhill crane commemorative stamp, a statewide sales tax, and a voluntary tax return check off.
2. Neither bill draft specifies the amount of funding to be provided to an abatement assistance program. Does the committee wish to specify an amount of funding to be provided to the program?
3. How should the bill drafts define the repellent for which assistance is provided? LRB-0457/P1 authorizes reimbursement for a “nonlethal treatment that is applied to corn or corn seed and that repels birds.” LRB-0604/P1 authorizes a rebate for a “non-toxic coating to seeds to discourage birds from consuming the seeds.” Do either of these definitions adequately describe AQ (i.e., Avipel) and any similar repellent product that might come to market in the future?
4. Related to the previous question, should the legislation authorize DNR to promulgate rules to render other types of nonlethal deterrent products eligible (if, for example, a product is developed to treat potatoes or wheat)?

³ Representative Considine also contacted Legislative Council staff to express support for a proposal to subsidize AQ use by corn growers.

5. Both bill drafts authorize assistance for a product that is applied to corn or to seeds. Should the legislation also provide financial assistance to a farmer who purchases seed that is already treated with AQ? If so, should the legislation enable the state agency to promulgate rules establishing the amount of reimbursement available in that instance (i.e., to calculate how much of the purchase price is attributable to AQ versus how much is attributable to the seed itself)? Alternatively, does the committee favor establishing different reimbursement limits for AQ versus seed treated with AQ?
6. Both bill drafts authorize reimbursement after a producer has purchased the repellent out-of-pocket. Should the legislation instead authorize a grant program that would provide funding to producers **prior** to the purchase of AQ? If so, should a producer be required to submit proof of purchase of AQ within a certain time frame after a grant is received?
7. Should the legislation limit the aggregate amount a producer may claim in assistance per calendar year? LRB-0604/P1 proposes a limit of \$2,000 per recipient per planting season. If AQ costs between \$10 and \$15 per acre, and rebates are available for 50 percent of the costs of AQ, a \$2,000 rebate would cover the cost of AQ for somewhere between 266 and 400 acres.
8. Presentations to the committee indicated that partial treatments of fields may leave seedlings vulnerable to depredation. Should legislation require a producer that receives assistance to commit to using treated seed across the entirety of a farm?
9. How should the legislation address excess demand for abatement assistance? LRB-0604/P1 requires DATCP to disburse funds on a first-come, first-served basis. Should a program instead prioritize applicants based upon set criteria (e.g., the proximity of an applicant's land to sandhill crane habitat)? Alternatively, because farmers may purchase AQ at different times of the year, should there instead be a particular date on which applications for assistance may be submitted? This may allow farmers to "reserve" assistance on a first-come, first-served basis, rather than only being able to obtain assistance after purchasing AQ.
10. Should the bill drafts require a deductible or cost-share by the producer before reimbursement assistance is paid? If so, what amount or percent? LRB-0604/P1 proposes a 50 percent cost-share.
11. Should a farmer be required to prove previous sandhill crane crop damage in order to be eligible for abatement assistance, as proposed by LRB-0457/P1? If so, and if AQ treatment is successful in eliminating crop damage, should the standard change for future growing seasons? In other words, should a producer remain eligible for assistance, even when he or she cannot demonstrate depredation due to the success of AQ treatment in a prior growing season?

If so, the Wildlife Damage Abatement and Claims Program (WDACP) provides a possible model. Under WDACP, a person may be eligible for abatement assistance if "wildlife damage is occurring or is **likely to occur**." [s. 29.889 (5) (b), Stats. (emphasis added).]

12. In the event a sandhill crane hunting season is authorized by other legislation, sandhill crane crop damage becomes eligible under WDACP. Under LRB-0457/P1, a producer is not eligible for WDACP assistance if the producer receives financial assistance under the bill draft. Is that the committee's desire?
13. In addition to the reporting required in LRB-0604/P1, should DATCP (or DNR) be directed to also compile the number of rebates requested and the total amount requested (to inform future budgeting decisions)?
14. Should an abatement program be administered by DATCP or DNR? On the one hand, DNR operates the existing WDACP and has experience evaluating wildlife damage. On the other hand, DATCP might be in a better position to fulfill any reporting requirements, especially those that relate to impacts of the abatement program on crop yields.

15. Should the abatement assistance be limited to “commercial” farming operations, as reflected in LRB-0604/P1, as opposed to being open to any person who purchases AQ? If so, should the legislation require an applicant to demonstrate a minimum amount of gross income from agricultural activities to qualify? For example, a farm must produce at least \$6,000 in gross farm revenue per year, or a total of \$18,000 over three years, in order to qualify for tax credits under the Farmland Preservation Program.
16. Farm operations can involve complex ownership situations (for example, members of a partnership or limited liability company who farm different acres of the same property). How should the legislation apply in situations where more than one person applies for assistance for the same farm? The legislation could, for example, require an applicant to disclose the identity of all persons who have an ownership interest in the acres for which the applicant seeks assistance. The administering agency could then coordinate the assistance so that only one applicant would be eligible for assistance for any given acre of land.
17. Should a bill draft include a formal sunset for an abatement assistance program? To the extent that funding for a program is discretionary, the program would operate only in fiscal years in which the Legislature chose to provide funding.

SANDHILL CRANE HUNTING SEASON (LRB-0464/P3)

Background

As outlined in the staff brief, and in various presentations delivered before the committee, the hunting of migratory birds, including sandhill cranes, is generally restricted under the federal Migratory Bird Treaty Act. While the act establishes broad protections for migratory birds, it also provides that the U.S. Secretary of the Interior may promulgate regulations enabling the hunting, taking, capturing, or killing of a migratory bird that is otherwise protected. These regulations, promulgated by the U.S. Fish and Wildlife Service (USFWS), determine when, to what extent, and by what means the activities impacting migratory birds may occur. As noted by David P. Scott at the third committee meeting, the process for a state to establish a sandhill crane hunting season involves several steps, including the enactment of state authority for a hunt, approval by the relevant Flyway Councils, and promulgation of regulations by USFWS.

As the committee has also heard, sandhill crane hunting and eligibility for assistance under WDACP are linked under current law. Under WDACP, sandhill crane crop damage becomes covered by WDACP “if hunting of sandhill cranes is authorized by the department [i.e., DNR].” [[s. 29.889 \(1\) \(e\), Stats.](#)] The committee heard from several presenters that a sandhill crane hunting season in Wisconsin requires authorization by both DNR and USFWS.

LRB-0464/P3

At the suggestion of Chair Tittl, LRB-0464/P3 is a bill draft that has been prepared to aid the committee’s discussion of options relating to a sandhill crane hunting season. The bill draft does the following:

- Directs DNR to authorize sandhill crane hunting, subsequent to approval by USFWS.
- Authorizes DNR to issue sandhill crane hunting permits.

- Requires a person to hold a small game hunting license, or other license that authorizes the hunting of small game,⁴ in addition to a hunting permit.
- Authorizes DNR to establish closed zones.
- Requires DNR to consider measures to avoid the inadvertent take of other bird species.
- Authorizes DNR to establish a cumulative preference system, if the number of permit applications exceeds the permit allotment.
- Limits a person to one permit per season, but does not specify any bag limits. However, current law provides DNR with the authority to establish bag limits. [[s. 29.014 \(1\), Stats.](#)]
- Directs DNR to conduct a free sandhill crane hunter education program including the following components:
 - History and recovery of the sandhill crane in Wisconsin and the Eastern United States.
 - Methods to distinguish sandhill cranes from other birds.
 - Methods used to estimate the population of sandhill cranes in Wisconsin.
 - Areas covered by sandhill crane hunting zones.
 - Any DNR rules regarding sandhill crane hunting.
- Requires a person to complete the education program, or an equivalent one in another jurisdiction, in order to obtain a permit.
- Requires DNR to note in GoWild that a person has completed an education program.
- Requires DNR to establish and administer an online registration system under which a hunter may register to hunt sandhill cranes on a specified day on a particular parcel of land that is open to hunting under WDACP. A landowner may deny hunter access only if the hunter has not registered in the system for that day, brings a motor vehicle on the land without permission, appears to be intoxicated, is unruly, or causes property damage.
- Charges \$20 for a resident permit.
- Charges \$100 for a nonresident permit.
- Charges \$4.50 for a preference point (\$4.25 for an application processing fee, plus a \$0.25 issuing fee).
- Dedicates the funds raised from permit applications to three purposes:
 - Developing, managing, preserving, restoring, and maintaining the sandhill crane population.
 - The hunter education program.
 - WDACP.
- Imposes a \$2 wildlife damage surcharge on a permit, the revenue of which is directed to WDACP.
- Opens WDACP to sandhill crane damage, given that current law directs the program to address sandhill crane damage if the hunting of sandhill cranes is authorized.

⁴ Examples of other licenses that generally authorize the hunting of small game include the archer license, crossbow license, and conservation patron license.

Questions for Discussion

18. The study committee could discuss the following questions relating to this bill draft and topic: In addition to establishing certain hunter education requirements, the bill draft requires DNR to establish restrictions on permits to “minimize the inadvertent taking of other bird species.” [See page 3, lines 7 to 9.] Is this language suitable?

Senator Spreitzer offered language that would require DNR more specifically to “minimize the likelihood that territorial breeding cranes are disproportionately hunted, and to minimize any potential impact to whooping cranes.” Does the committee favor this addition?

19. If demand for permits exceeds supply, the bill draft requires DNR to establish a preference point system (rather than, for example, issuing permits randomly). Is this approach acceptable?

20. To comply with federal requirements, the bill draft requires a hunter to complete a sandhill crane hunter education program. Should the bill draft require a hunter to pass a sandhill crane identification test annually before a permit is issued?⁵

21. Should the bill draft provide further direction to DNR regarding the closing of zones?

Senator Spreitzer suggested language to allow DNR to establish closed zones, or close the season entirely, during the annual Great Midwest Crane Fest or similar ecotourism related to cranes.

22. Should the bill draft establish an age requirement for sandhill crane permit applicants?

Senator Spreitzer suggested that an applicant for a permit be at least 16 years old, and that the applicant possess a valid small game hunting authorization before applying for a permit.

23. Current federal regulations set the following maximum bag limits for jurisdictions in the Mississippi Flyway: two per season in Tennessee; three per season in Alabama; and two per day in Kentucky (with a possession limit of three per season). As noted above, the bill draft would rely on current law authority for DNR to set Wisconsin’s bag limit.

Should the bill draft direct DNR to set a specific bag limit (within any federal constraints)?

24. Current federal regulations establish other requirements and limitations related to sandhill crane hunting. These regulations including carcass tagging requirements, limitations on certain types of weapons and ammunition, and post-season surveys.⁶

- a. Should the bill draft expressly direct DNR to establish hunting parameters that mirror any applicable federal regulations?
- b. Alternatively, should the bill draft direct DNR to establish any parameters that are more restrictive than federal requirements? For instance, Senator Spreitzer has suggested that the committee consider whether a permittee who fails to submit a post-season survey be ineligible to apply for a permit in the future. If so, should the hunter be ineligible for all future seasons (as is the case in Alabama and Tennessee), or just the following season (as is the case in Kentucky)?

⁵ Tennessee and Kansas, for example, require an annual, online sandhill crane identification examination.

⁶ Other Mississippi Flyway jurisdictions require all permittees to submit a post-season survey, regardless of whether the hunter harvested, or attempted to harvest, a sandhill crane.

25. The bill draft sets the price of a resident hunting permit at \$20 and a nonresident hunting permit at \$100.⁷ Are these amounts appropriate?
26. The bill draft imposes a processing fee of \$4.25 for either a hunting permit or a preference point (plus a \$0.25 issuing fee imposed under current law).⁸ Is this amount appropriate?
27. The bill draft devotes half of the processing, issuing, and permit fees to WDACP, and half to DNR for developing, managing, preserving, restoring, and maintaining the sandhill crane population and for the sandhill crane hunter education program.
 - a. Is this distribution of funds appropriate?
 - b. Would the committee like to also direct general purpose revenue to these purposes, or to DNR to conduct long-term research and monitoring of the sandhill crane population, as suggested by Senator Spreitzer?
28. The bill draft imposes a surcharge of \$2 on a permit, with the proceeds devoted to WDACP.⁹ Does the committee wish to include this surcharge?
29. The bill draft establishes a system whereby hunters will be notified of lands opened to sandhill crane hunting under WDACP requirements. This system would also allow hunters to register to hunt sandhill cranes on a particular parcel of land on a specified day. [See page 8, lines 7 to 15.] This language mirrors a similar proposal in [2023 Assembly Bill 1038](#), which would have created an analogous system for bear hunting on lands opened for hunting under WDACP.
 - a. Does the committee wish to establish this system?
 - b. Are there any aspects of this proposal that the committee would like to modify?
30. Under federal regulations, the maximum migratory bird hunting hours generally are 30 minutes before sunrise until sunset.

Senator Spreitzer suggested further restricting hunting hours to avoid disturbing cranes on their nocturnal roosts at traditional staging areas. If the committee would like to further restrict hunting hours, would two hours after sunrise until two hours before sunset be more suitable?
31. If sandhill crane damage becomes eligible under WDACP as a result of the enactment and implementation of this bill draft, as noted above, the committee could consider several issues relating to WDACP, including the following:
 - a. The bill draft would provide additional funding to WDACP through revenue associated with sandhill crane hunting permits. Should the bill draft provide additional funding to support new program costs associated with sandhill crane damage abatement and claims?
 - b. Currently, WDACP provides both abatement assistance and payment of damage claims. Should this remain the case for sandhill crane damage, or should the program only provide one of these two forms of support?

⁷ A sandhill crane hunting permit is \$1 in Tennessee, \$3 in Kentucky, and \$20 in Alabama (in each case, for both residents and nonresidents alike). In states in other Flyways, prices range from \$0 to \$43 for a resident, and from \$0 to \$150 for a nonresident. Some states also impose a charge for entering a permit lottery. These prices range from \$5 to \$15.

⁸ This amount is the same as the cost of a bear hunting preference point.

⁹ This surcharge is imposed on most types of hunting authorizations (in the case of a conservation patron license, the surcharge is \$4).

- c. WDACP is currently administered at the county level, with DNR oversight. Is there any reason this structure is not suitable for sandhill crane damage?
- d. When there is insufficient funding within WDACP, damage claims are prorated. Should there be a prorating of claims relating to sandhill crane damage that is separate from damage caused by other species?
- e. Under WDACP, land generally must be opened to hunting if the land was the subject of a damage claim payment. Should this remain the case for sandhill crane damage?
- f. Abatement assistance is eligible under WDACP only for abatement methods that are “cost-effective.” Without further information on whether AQ would be deemed “cost-effective,” should that requirement be waived to ensure that AQ can be used as an abatement method under WDACP?
- g. Alternatively, should the bill draft establish a separate, crane-specific program to address damage, rather than incorporating crane-related damage into the existing WDACP?

SANDHILL CRANE HUNTING SEASON WITH INCREASED SURCHARGES (LRB-0591/P1)

At the suggestion of Chair Tittl, LRB-0591/P1 is a bill draft that has been prepared to aid the committee’s discussion of options relating to a sandhill crane hunting season.

The bill draft is identical to LRB-0464/P3, except that LRB-0591/P1 also increases, as compared to current law, the wildlife damage surcharge by 50 percent for resident approvals and by 100 percent for nonresident approvals, as follows:

- From \$2 to \$3 for **resident hunting approvals** (and imposes that surcharge on a resident sandhill crane permit).
- From \$2 to \$4 for **nonresident hunting approvals** (and imposes that surcharge on a nonresident sandhill crane permit).
- From \$4 to \$6 for a **resident conservation patron** license.
- From \$4 to \$8 for a **nonresident conservation patron** license.

Question for Discussion

32. Does the committee favor these surcharge increases?

STATE DEPREDATION HUNTING (LRB-0465/P3)

Background

At its first and second meetings, the committee heard presentations describing Federal Migratory Bird Depredation Permits. These permits, which are issued by USFWS, authorize a permit holder to take cranes causing damage to agricultural crops. As noted by the presenters, a crane taken under a federal depredation permit generally may not be utilized. Rather, the carcass must either be buried or left in the field. Also, an applicant for a depredation permit must have first attempted nonlethal abatement measures.

There is currently no state version of a depredation permit.

LRB-0465/P3

Based on discussions with Chair Tittl, LRB-0465/P3 was prepared to aid the study committee's discussion of options relating to depredation permits. In brief, this bill draft authorizes the creation of a narrow sandhill crane hunting season. Under the bill draft, a hunter may obtain one state depredation permit per season, which may be used to harvest up to three sandhill cranes.

A hunter may use the state depredation permit only on a farm where sandhill cranes cause damage to crops in the fall, and where the landowner elects to open the farm to depredation hunting. DNR must establish a limit on the number of sandhill cranes that may be taken on a parcel of land, and must close the parcel to hunting when the limit is reached.

No person may apply for a state sandhill crane depredation permit if that person holds a valid Federal Migratory Bird Depredation Permit.

As with LRB-0464/P3, a person must complete a hunter education program before obtaining a state depredation permit. The fees and surcharges associated with permits, as well as the uses of these funds, generally mirror those proposed in LRB-0464/P3. However, LRB-0465/P3 does not establish a preference point system for depredation permits.

As with LRB-0464/P3, enactment and implementation of LRB-0465/P3 would make sandhill crane-related damage eligible for abatement assistance and damage claims under WDACP.

Questions for Discussion

The study committee could discuss the following questions relating to this bill draft and topic:

33. The bill draft limits a person to one permit per season, and three cranes per permit. Is this the correct number per permit? Alternatively, should the bill draft authorize DNR, in consultation with USFWS, to annually establish the number of cranes that may be taken per permit?
34. The bill draft does not specify how DNR would issue permits if demand for permits exceeds supply. Should the bill draft require DNR to issue them randomly? If not, should the bill draft replicate the preference point system utilized in LRB-0464/P3?
35. The bill draft directs DNR to maintain and make available to hunters a list of farms approved for the hunting of sandhill cranes. Is this language sufficient? If not, should the bill draft establish a more formal system through which hunters could register to hunt on a particular parcel of land on a specified day (like the system established in LRB-0464/P3)?
36. To the knowledge of Legislative Council staff, no state has authorized limited sandhill crane hunting through the issuance of state depredation permits, as proposed in LRB-0465/P3. As such, it is not known how the relevant Flyway Councils and USFWS would analyze the proposal in deciding whether to allow for such a hunt in this state. If the committee is interested in further exploring this proposal, should Legislative Council staff contact USFWS for its perspective?

LETTER TO USFWS

At the suggestion of Representative Considine, a draft letter to USFWS regarding federal depredation permits has been prepared for the committee's consideration. With the approval of the committee, the letter could be sent to USFWS on the committee's behalf.

As the committee heard during several presentations, federal depredation permits authorize the take of a sandhill crane that is actively causing crop damage, but generally do not authorize the carcass to be

utilized (except in limited situations involving a local government or airport). Several committee members expressed disappointment with this restriction, and asked whether USFWS possessed any latitude in this regard.

Based on the following information published by USFWS, that agency is able to authorize “alternative disposal methods,” provided the applicant possesses “appropriate justification”:

14. How do I dispose of dead birds?

Typically, dead birds must be (a) turned over to USDA for official purposes, (b) donated to a public educational or scientific institution, or (c) completely destroyed by burial or incineration. Alternative disposal methods may be requested with appropriate justification.¹⁰

The draft letter urges USFWS to authorize alternative disposal methods for a sandhill crane depredation permit issued to a Wisconsin agricultural producer. Specifically, the letter asks that the permit authorize a hunter to take the sandhill crane causing damage, and to utilize the carcass of the bird.

EL:BK:kp;jal

¹⁰ See USFWS, *Frequently Asked Questions About a Federal Depredation Permit* (Rev. June 2018), <https://www.fws.gov/sites/default/files/documents/3-200-13FAQ.pdf>.