Washington State
House of Representatives
Office of Program Research

# BILL ANALYSIS

# Rural Development, Agriculture, & Natural Resources Committee

# HB 2498

**Brief Description**: Providing compensation to department of natural resources lessees whose leases are terminated for reasons other than default.

**Sponsors**: Representatives Corry, Blake, Walsh, Mosbrucker, Chandler, Hoff, Dye, Graham, Davis, Dent, Dufault, Van Werven, Maycumber, Rude, Ybarra, Lekanoff, Eslick and Leavitt.

**Brief Summary of Bill**

- Requires the Department of Natural Resources (DNR) to compensate lessees in the event that DNR exercises a nondefault or early termination provision in a state land lease for agricultural or grazing purposes.
- Establishes compensation formulas for agricultural leases and for grazing leases.
- Creates certain additional obligations for DNR in the event that DNR exercises a nondefault or early termination provision in a state land lease for agricultural or grazing purposes.

**Hearing Date**: 1/22/20

**Staff**: Robert Hatfield (786-7117).

**Background**:

The Department of Natural Resources (DNR) manages a number of different categories of land, each for a specific purpose and under different management requirements. This includes approximately 3 million acres of federally granted lands and state forestlands, which the DNR manages to support common schools, counties, and other public institutions.

The DNR has the authority to lease state lands for various purposes, including commercial, industrial, residential, agricultural, and recreational uses, in order to obtain a fair-market rental return to the state or appropriate trust.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The DNR generally may not lease state lands for longer than 10 years, although longer leases are specifically authorized in multiple instances. Lands leased for general agricultural purposes may not exceed 25 years, and leases for tree fruit or grape production may be for up to 55 years. Share crop leases may not exceed 10 years.

When a state land lease for agricultural or grazing purposes includes a nondefault or early termination provision, the DNR must provide advance written notice of at least 180 days to the lessee prior to termination of the lease. In addition to the 180-day advance written notice that the DNR must provide prior to terminating an agricultural or grazing lease, the DNR must also provide the lessee with written documentation demonstrating that the DNR has included the leased land in a plan for higher and better use, a land exchange, or a sale.

The DNR is not required to include a nondefault or early termination provision in any state land lease for agricultural or grazing purposes. The DNR is not prohibited from allowing a lessee to surrender the leasehold subject to the terms provided in the lease. The DNR is not prohibited from executing other lease provisions designed to protect the interests of the lessee in the event that the lease is terminated under a nondefault or early termination provision.

**Summary of Bill**:

In the event the Department of Natural Resources (DNR) exercises a nondefault or early termination provision in a state land lease for agricultural or grazing purposes, the department shall compensate the lessee according to the following schedule:

- For agricultural leases, the DNR shall pay to the lessee the expected net return the lessee would have realized from crops raised on the leased land. The net return must be calculated according to the following formula: the annual net revenue per acre for the class of crop produced by the lessee, less the rental rate per acre for the land leased by the lessee; multiplied by the number of acres leased by the lessee. The annual net revenue per acre for a class of crop must be calculated according to the most recent rolling average annual net rental return per acre for that class of crop as established by the county assessor of the county in which the leased land is located. If the county assessor of the county in which the land is located has not established an annual net rental return per acre, the DNR must use the net rental return per acre as established by the county assessor of the nearest county in which the county assessor has established such an annual net rental return per acre. The annual net rental return per acre, as established by the county assessor, must be adjusted to reflect the total annual net revenue per acre.

- For grazing leases, the DNR must pay to the lessee the annual rent for the land subject to the lease, multiplied by a factor of six, except that the DNR is not required to compensate the lessee for any years that are specifically designated in the lease as nongrazing years.

For both grazing leases and agricultural leases, the DNR must make payments to the lessee on an annual basis for the remaining term of the terminated lease, unless the DNR and the lessee agree to an alternate schedule of payments. If payments are made on any schedule other than on an annual basis, the DNR must subject any advance payments to an appropriate discount rate in order to reflect the net present value of the compensation owed by the DNR.

For both grazing leases and agricultural leases, if the lessee has placed any improvements on the land that is subject to the lease, the DNR is responsible for compensating the lessee for the value of the improvements.

If the DNR's exercise of a nondefault or early termination provision results in the removal of fencing from the land subject to the lease, the DNR is responsible for ensuring the replacement of any removed fencing.

If the DNR's exercise of a nondefault or early termination provision causes the lessee to incur a financial penalty as a result of an early withdrawal from a Natural Resources Conservation Service program, the DNR is responsible for reimbursing the lessee for payment of the financial penalty.

**Appropriation**: None.

**Fiscal Note**: Available.

**Effective Date**: The bill takes effect 90 days after adjournment of the session in which the bill is passed.