

**2SSB 5784** - H COMM AMD

By Committee on Agriculture & Natural Resources

**ADOPTED 03/01/2024**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature has historically  
4 appropriated \$30,000 per fiscal year from the state general fund and  
5 \$120,000 per fiscal year from the fish, wildlife, and conservation  
6 account for the payment of claims for crop damage and tasked the  
7 department of fish and wildlife with prioritizing those claims within  
8 amounts appropriated. The legislature has never intended to assume  
9 responsibility for claims in excess of amounts appropriated in any  
10 fiscal year.

11 Claims awarded or agreed upon prior to the effective date of this  
12 section are in excess of amounts appropriated. The legislature  
13 intends to appropriate an additional \$184,000 for those claims. No  
14 further amounts will be appropriated for payment on those claims.  
15 Going forward, the legislature intends to prioritize claims in a more  
16 equitable manner that compensates claimants according to the  
17 percentage of their loss.

18 **Sec. 2.** RCW 77.36.080 and 2009 c 333 s 60 are each amended to  
19 read as follows:

20 (1) Unless the legislature declares an emergency under this  
21 section, the department may pay no more than (~~thirty thousand~~  
22 ~~dollars~~) \$300,000 per fiscal year from the general fund for claims  
23 and assessment costs for damage to commercial crops caused by wild  
24 deer or elk submitted under RCW 77.36.100.

25 (2)(a) The legislature may declare an emergency if weather, fire,  
26 or other natural events result in deer or elk causing excessive  
27 damage to commercial crops.

28 (b) After an emergency declaration, the department may pay as  
29 much as may be subsequently appropriated, in addition to the funds  
30 authorized under subsection (1) of this section, for claims and

1 assessment costs under RCW 77.36.100. Such money shall be used to pay  
2 wildlife interaction claims only if the claim meets the conditions of  
3 RCW 77.36.100 and the department has expended all funds authorized  
4 under RCW 77.36.070 or subsection (1) of this section.

5 **Sec. 3.** RCW 77.36.100 and 2013 c 329 s 4 are each amended to  
6 read as follows:

7 (1)(a) Except as limited by RCW 77.36.070, 77.36.080, 77.36.170,  
8 and 77.36.180, the department shall offer to distribute money  
9 appropriated to pay claims to the owner of commercial crops for  
10 damage caused by wild deer or elk or to the owners of livestock that  
11 has been killed by bears, wolves, or cougars, or injured by bears,  
12 wolves, or cougars to such a degree that the market value of the  
13 livestock has been diminished. Payments for claims for damage to  
14 livestock are not subject to the limitations of RCW 77.36.070 and  
15 77.36.080, but may not, except as provided in RCW 77.36.170 and  
16 77.36.180, exceed the total amount specifically appropriated  
17 therefor.

18 (b) Owners of commercial crops or livestock are only eligible for  
19 a claim under this subsection if:

20 (i) The commercial crop owner satisfies the definition of  
21 "eligible farmer" in RCW 82.08.855;

22 (ii) The conditions of RCW 77.36.110 have been satisfied; and

23 (iii) The damage caused to the commercial crop or livestock  
24 satisfies the criteria for damage established by the commission under  
25 (c) of this subsection.

26 (c) The commission shall adopt and maintain by rule criteria that  
27 clarifies the damage to commercial crops and livestock qualifying for  
28 compensation under this subsection. An owner of a commercial crop or  
29 livestock must satisfy the criteria prior to receiving compensation  
30 under this subsection. The criteria for damage adopted under this  
31 subsection must include, but not be limited to, a required minimum  
32 economic loss to the owner of the commercial crop or livestock, which  
33 may not be set at a value of less than (~~(five hundred dollars)~~) \$500.

34 (2)(a) Subject to the availability of nonstate funds, nonstate  
35 resources other than cash, or amounts appropriated for this specific  
36 purpose, the department may offer to provide compensation to offset  
37 wildlife interactions to a person who applies to the department for  
38 compensation for damage to property other than commercial crops or  
39 livestock that is the result of a mammalian or avian species of

1 wildlife on a case-specific basis if the conditions of RCW 77.36.110  
2 have been satisfied and if the damage satisfies the criteria for  
3 damage established by the commission under (b) of this subsection.

4 (b) The commission shall adopt and maintain by rule criteria for  
5 damage to property other than a commercial crop or livestock that is  
6 damaged by wildlife and may be eligible for compensation under this  
7 subsection, including criteria for filing a claim for compensation  
8 under this subsection.

9 (3) (a) To prevent or offset wildlife interactions, the department  
10 may offer materials or services to a person who applies to the  
11 department for assistance in providing mitigating actions designed to  
12 reduce wildlife interactions if the actions are designed to address  
13 damage that satisfies the criteria for damage established by the  
14 commission under this section.

15 (b) The commission shall adopt and maintain by rule criteria for  
16 mitigating actions designed to address wildlife interactions that may  
17 be eligible for materials and services under this section, including  
18 criteria for submitting an application under this section.

19 (4) (a) An owner who files a claim under this section may appeal  
20 the decision of the department pursuant to rules adopted by the  
21 commission if the claim:

22 ~~((a))~~ (i) Is denied; or

23 ~~((b))~~ (ii) Is disputed by the owner and the owner disagrees  
24 with the amount of compensation determined by the department.

25 (b) An appeal of a decision of the department addressing deer or  
26 elk damage to commercial crops is limited to \$30,000.

27 (5) ~~((The))~~ (a) Consistent with this section, the commission  
28 shall adopt rules setting limits and conditions for the department's  
29 expenditures on claims and assessments for commercial crops,  
30 livestock, other property, and mitigating actions.

31 (b) Claims awarded or agreed upon that are unpaid due to being in  
32 excess of available funds in the current fiscal year are eligible for  
33 payment in the next state fiscal year.

34 (c) If additional funds are not appropriated by the legislature  
35 in the subsequent fiscal year specifically for unpaid claims, then no  
36 further payment may be made on the claim.

37 (d) Claims awarded or agreed upon during a fiscal year must be  
38 prioritized for payment based upon the highest percentage of loss,  
39 calculated by comparing agreed-upon or awarded commercial crop

1 damages to the gross sales or harvested value of commercial crops for  
2 the previous tax year.

3 (e) The payment of a claim under this section is conditional on  
4 the availability of specific funding for this purpose and is not a  
5 guarantee of reimbursement.

6 **Sec. 4.** RCW 77.36.130 and 2013 c 329 s 5 are each amended to  
7 read as follows:

8 (1) Except as otherwise provided in this section and as limited  
9 by RCW 77.36.100, 77.36.070, 77.36.080, 77.36.170, and 77.36.180, the  
10 cash compensation portion of each claim by the department under this  
11 chapter is limited to the lesser of:

12 (a) The value of the damage to the property by wildlife, reduced  
13 by the amount of compensation provided to the claimant by any  
14 nonprofit organizations that provide compensation to private property  
15 owners due to financial losses caused by wildlife interactions. The  
16 value of killed or injured livestock may be no more than the market  
17 value of the lost livestock subject to the conditions and criteria  
18 established by rule of the commission; or

19 (b) ~~((Ten thousand dollars))~~ \$30,000.

20 ~~(2) ((The department may offer to pay a claim for an amount in~~  
21 ~~excess of ten thousand dollars to the owners of commercial crops or~~  
22 ~~livestock filing a claim under RCW 77.36.100 only if the outcome of~~  
23 ~~an appeal filed by the claimant under RCW 77.36.100 determines a~~  
24 ~~payment higher than ten thousand dollars.~~

25 ~~(3))~~ All payments of claims by the department under this chapter  
26 must be paid to the owner of the damaged property and may not be  
27 assigned to a third party.

28 ~~((4))~~ (3) The burden of proving all property damage, including  
29 damage to commercial crops and livestock, belongs to the claimant.

30 NEW SECTION. **Sec. 5.** By December 1, 2024, the department of  
31 fish and wildlife shall review crop and livestock wildlife damage  
32 programs in other states and submit to the legislature a list of  
33 recommendations for changes to Washington statutes.

34 NEW SECTION. **Sec. 6.** A new section is added to chapter 77.36  
35 RCW to read as follows:

36 (1) The department, in coordination, decision making, and  
37 stewardship with tribal comanagers, shall develop a three-year pilot

1 program to collar elk within herds nearest agricultural lands within  
2 the department's south central management region. The pilot program  
3 must include elk herds that cause year-round damage or seasonal crop  
4 damage. The collaring of elk may include a data sharing agreement  
5 between the department, a technology company, and farmers to provide  
6 the farmers with knowledge of when elk are in the area or nearing  
7 private property when damage may occur to their crops. The use of the  
8 data agreement and the intent of the pilot project is to help farmers  
9 in training and education as a means to more effectively deploy  
10 hazing techniques in an effort to prevent crop, fence, and property  
11 damage from elk. Other tools may include damage permits issued to  
12 tribal and nontribal hunters to reduce the local population on  
13 private lands, as long as an agreement is signed by the landowner,  
14 tribal member, and the department.

15 (2) Subject to amounts appropriated for this specific purpose,  
16 the department shall make funding available to the Yakama nation  
17 wildlife staff to participate in the pilot project established in  
18 this section, including for collaring and monitoring the elk  
19 population. The department shall share GPS collar data with the  
20 Yakama nation wildlife resource management program to assist in  
21 management goals and objectives and to provide best management  
22 practices.

23 (3) The department must report back to the appropriate committees  
24 of the legislature by December 1, 2027, regarding the pilot program  
25 created in this section.

26 (4) This section expires July 1, 2028."

27 Correct the title.

EFFECT: (1) Requires the department of fish and wildlife (DFW) to coordinate with tribal comanagers when developing the pilot program required by the underlying bill.

(2) Provides that the pilot project may, rather than must, include a data-sharing agreement and specifies that the use of the data-sharing agreement and the intent of the pilot project is to help farmers in training and education as a means to more effectively, rather than efficiently, deploy hazing techniques to prevent crop, fence, and property damage from elk.

(3) Authorizes, within the pilot project, the use of damage permits issued to tribal and nontribal hunters to reduce the local elk population on private lands if there is an agreement signed by the landowner, tribal member, and the DFW.

(4) Requires the DFW to make funding available, subject to appropriation, to Yakama nation wildlife staff to participate in the pilot project.

(5) Requires the DFW to share GPS collar data with the Yakama nation wildlife resource management program.

(6) Maintains all other provisions of the underlying bill.

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