

ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB1071

Hearing Date: Wednesday February 19, 2020
Committee On: Natural Resources
Introducer: Hughes
One Liner: Adopt the Wildlife Damage Recovery Act

Roll Call Vote - Final Committee Action:
Indefinitely postponed

Vote Results:

Aye: 8 Senators Albrecht, Bostelman, Geist, Gragert, Halloran, Hughes, Moser, Quick

Nay:

Absent:

Present Not Voting:

Oral Testimony:

Proponents:

Senator Dan Hughes

Representing:

Introducer

Opponents:

Timothy McCoy
Michael O'Hara
Scott Smathers
Jerry McDonald

Representing:

Nebraska Game and Parks Commission
Sierra Club of Nebraska
Nebraska Sportsmen's Foundation
Pheasants Forever

Neutral:

Representing:

Summary of purpose and/or changes:

LB 1071 would establish the Wildlife Damage Recovery Act ("the Act"). The Act would compensate agricultural producers for damage to farm products caused by wildlife activity. Compensation would come from the Wildlife Damage Recovery Fund ("the fund"), which would be administered by the Wildlife Damage Recovery Council ("the council"), both created by the Act. A producer seeking compensation would have to file a claim with the council, generally within seventy-two hours of discovering the damage. Compensation may be limited or denied if the council finds the producer did not exercise reasonable care and diligence to avoid or mitigate the damage or unreasonably restricted access to their land after receiving written notice from the Game and Parks Commission ("the commission") that granting access was necessary to mitigate damage. This bill would set the procedure for claims made under the Act.

Section by Section summary:

Section 1 establishes the Wildlife Damage Recovery Act.

Section 2 defines "claimant," "commission," "council," "farm product," "farming or livestock production," and "wildlife."

Section 3 states a legislative finding that Nebraska benefits financially from hunting and that landowners should be compensated for damage caused by wildlife.

Section 4 creates the Wildlife Damage Recover Council to manage and administer the Wildlife Damage Recovery Fund. The council shall be made up of three individuals. Each member must be actively engaged in farming or livestock production. Members shall be appointed by the Governor and approved by a majority vote of the Legislature.

Section 5 states that the commission shall provide reimbursement and administrative support for council members

Section 6 gives the council authority to determine the amount of financial loss due to wildlife damage and to advise the commission on the administration and management of the fund.

Section 7 creates the Wildlife Damage Recovery Fund and provides for an annual transfer of \$3 million to the fund from the State Game Fund.

Section 8 allows individuals with a direct financial interest in agriculture and who have farm products damaged by wildlife activity to apply for compensation from the fund. It also sets the process for an investigation of the damage, the determination of the damage amount, and factors to be taken into account during the investigation. Claims filed for damage to crops under cultivation or harvested crops must be within seventy-two hours of the damage being discovered. For orchards, the claim may be filed at any time damage occurs.

Recovery may be limited or denied if the council finds that the claimant failed to exercise reasonable care and diligence to avoid or minimize the wildlife damage, or unreasonably restricted hunting or passage on the property after receiving written notice from the commission that granting access was necessary to mitigate wildlife damage.

Section 9 gives the council discretion to pay an award or deny a claim based on their findings during the investigation conducted pursuant to Section 8.

Section 10 sets the procedure for a claimant to refuse and challenge an award amount and procedure for a claimant to challenge the denial of a award.

Section 11 allows the commission to preemptively offer mitigation assistance for wildlife damage to ag producers who apply for assistance.

Section 12 allows the commission to adopt rules and regulations to carry out the Act.

Section 13 amends section 73-324 to create an exception to allow the fund to receive money that would otherwise go into the State Game Fund, and states legislative intent.

Section 14 amends section 37-1273 to allow fees from the State Boat Act to be transferred to the General Fund and to the Wildlife Damage Recovery Fund.

Section 15 repeals the original sections.

Dan Hughes, Chairperson