

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1071**

Introduced by Hughes, 44.

Read first time January 21, 2020

Committee:

- 1 A BILL FOR AN ACT relating to wildlife; to amend sections 37-324 and
- 2 37-1273, Reissue Revised Statutes of Nebraska; to adopt the Wildlife
- 3 Damage Recovery Act; to state intent regarding and provide for
- 4 transfers of funds as prescribed; and to repeal the original
- 5 sections.
- 6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 12 of this act shall be known and may be  
2 cited as the Wildlife Damage Recovery Act.

3           Sec. 2. For purposes of the Wildlife Damage Recovery Act:

4           (1) Claimant means a person who has a direct financial interest in  
5 farming or livestock production in Nebraska upon which damage has been  
6 sustained due to wildlife activity and who files a claim pursuant to the  
7 Wildlife Damage Recovery Act;

8           (2) Commission means the Game and Parks Commission;

9           (3) Council means the Wildlife Damage Recovery Council;

10          (4) Farm product means those plants and animals useful to  
11 individuals and includes, but is not limited to, forages and sod crops,  
12 grains and feed crops, including those stored for future feeding uses,  
13 poultry and poultry products, livestock, including breeding and grazing  
14 livestock, fruits, and vegetables;

15          (5) Farming or livestock production means the active use,  
16 management, and operation of real and personal property for the  
17 production of a farm product; and

18          (6) Wildlife means antelope, deer, and elk.

19          Sec. 3. The Legislature finds that:

20          (1) Agricultural commodity producers experience financial losses due  
21 to crop damage caused by wildlife managed by the commission;

22          (2) Such financial losses cause economic hardship for some  
23 producers; and

24          (3) The State of Nebraska benefits financially from the hunting of  
25 wildlife and should assist such producers to mitigate such damages or  
26 reimburse such producers for their losses.

27          Sec. 4. (1) The Wildlife Damage Recovery Council is created. The  
28 Governor shall appoint the members of the council with the consent of a  
29 majority of the members of the Legislature. To be eligible to serve as a  
30 member of the council, a person shall be actively engaged in farming or  
31 livestock production. The members of the council shall include residents

1 from the districts created in section 37-102 as follows:

2 (a) One representative from district one or two;

3 (b) One representative from district three, four, or eight; and

4 (c) One representative from district five, six, or seven.

5 (2) The council shall select a chairperson from among its members.

6 The council shall hold quarterly meetings and shall hold other meetings  
7 at the call of the chairperson or upon request of a majority of the  
8 members.

9 Sec. 5. (1) The members of the council may be reimbursed for  
10 expenses incurred in connection with serving on the council.

11 (2) The commission shall provide administrative support for the  
12 council.

13 Sec. 6. The council shall advise the commission on the  
14 administration and management of the Wildlife Damage Recovery Fund and  
15 shall determine the financial loss suffered by a claimant due to wildlife  
16 activity.

17 Sec. 7. (1) The Wildlife Damage Recovery Fund is created. The  
18 commission shall administer the fund. Any money in the fund available for  
19 investment shall be invested by the state investment officer pursuant to  
20 the Nebraska Capital Expansion Act and the Nebraska State Funds  
21 Investment Act.

22 (2) It is the intent of the Legislature to transfer three million  
23 dollars each fiscal year from the State Game Fund to the Wildlife Damage  
24 Recovery Fund.

25 Sec. 8. (1) A person who has a direct financial interest in farming  
26 or livestock production in Nebraska whose farm products within Nebraska  
27 have sustained damage due to wildlife activity may file a claim for  
28 compensation with the commission pursuant to the Wildlife Damage Recovery  
29 Act and rules and regulations adopted and promulgated under the act. A  
30 claim may be filed for orchards at any time damage occurs, for farm  
31 products under cultivation within seventy-two hours after discovery of

1 the damage, and for harvested farm products within seventy-two hours  
2 after discovery of the damage.

3 (2) In order to recover compensation from the Wildlife Damage  
4 Recovery Fund for a claim under the act, a claimant:

5 (a) Shall notify the commission within seventy-two hours after  
6 discovery of the damage which is the subject of the claim;

7 (b) Shall provide personnel designated by the commission with  
8 reasonable access to the property to verify the damage; and

9 (c) Shall have the burden of proof regarding the cause of the damage  
10 and the financial loss sustained due to wildlife activity.

11 (3) The commission shall cause an investigation and appraisal of the  
12 damage to be completed as soon as practical after notification under this  
13 section. The council may accept the results of the appraisal or make a  
14 separate determination of damages in accordance with this section.

15 (4) In determining the amount of compensation to be awarded for the  
16 financial loss sustained due to wildlife activity, the council shall  
17 consider:

18 (a) The extent of the damage due to wildlife activity;

19 (b) The revenue the claimant derives from participation in wildlife  
20 management, the use of landowner permits, and hunter access charges; and

21 (c) The amount available in the Wildlife Damage Recovery Fund.

22 (5)(a) The council may deny or limit compensation to a claimant if  
23 the claimant:

24 (i) Failed to exercise reasonable care and diligence to avoid the  
25 loss or minimize the damage; or

26 (ii) Unreasonably restricted hunting or passage upon the property  
27 after receiving written notice from the commission of the necessity of  
28 allowing such hunting or access to control or mitigate damage upon such  
29 property due to wildlife activity.

30 (b) In considering whether hunting or passage upon such property was  
31 unreasonably restricted, the council shall consider only whether such

1 restriction significantly and adversely reduced a necessary harvest of  
2 wildlife.

3       Sec. 9. The council may deny a claim or may designate the amount to  
4 be paid on a claim based on the investigation and appraisal and taking  
5 into consideration the information gathered under the Wildlife Damage  
6 Recovery Act with respect to the claim.

7       Sec. 10. A claimant may refuse an award on a claim filed under the  
8 Wildlife Damage Recovery Act. If a claimant refuses or is denied an award  
9 by the council, the claimant may file an action for damages in the county  
10 court or district court of the county in which the damage due to wildlife  
11 activity or any portion thereof occurred. The action shall be filed  
12 within sixty days after the refusal or denial of the award. If the action  
13 is not filed with such sixty-day period, the action shall be forever  
14 barred. The court shall forward a certified copy of its judgment in such  
15 action to the commission.

16       Sec. 11. The commission may offer materials and services to a  
17 person who has a direct financial interest in farming or livestock  
18 production in Nebraska and who applies for assistance in mitigating  
19 damage due to wildlife activity which may result in a claim under the  
20 Wildlife Damage Recovery Act.

21       Sec. 12. The commission may adopt and promulgate rules and  
22 regulations to carry out the Wildlife Damage Recovery Act.

23       Sec. 13. Section 37-324, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25       37-324 (1) Except as otherwise provided in subsection (3) of this  
26 section, the The funds derived from the sale of permits and publications  
27 as provided in the Game Law, any unexpended balance now on hand from the  
28 sale of hunting, fur-harvesting, and fishing permits, and all money  
29 required by the Game Law to be paid into the State Game Fund are hereby  
30 appropriated to the use of the commission (a) for the propagation,  
31 importation, protection, preservation, and distribution of game and fish

1 and necessary equipment therefor and all things pertaining thereto, (b)  
2 for the creation of cash funds under section 37-326, (c) for the  
3 administration and enforcement of the State Boat Act, (d) for boating  
4 safety educational programs, (e) for the construction and maintenance of  
5 boating and docking facilities, navigation aids, and access to boating  
6 areas and such other uses which will promote the safety and convenience  
7 of the boating public in Nebraska, and (f) for publishing costs for  
8 publications relating to topics listed in subdivisions (a) and (b) of  
9 this subsection and other topics of general interest to the state as  
10 approved by the commission. An amount equal to two dollars from each  
11 annual resident fishing permit and two dollars from each combination  
12 hunting and fishing permit sold in this state shall be used by the  
13 commission for the administration, construction, operation, and  
14 maintenance of fish hatcheries and for the distribution of fish.

15 (2) Expenditures for publications on topics of general interest to  
16 the state shall not exceed the income derived from single-copy and  
17 subscription sales of commission publications and advertising revenue  
18 from such publications.

19 (3) It is the intent of the Legislature to transfer up to three  
20 million dollars each fiscal year from the State Game Fund to the Wildlife  
21 Damage Recovery Fund for purposes of the Wildlife Damage Recovery Act.

22 Sec. 14. Section 37-1273, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 37-1273 All fees as provided by the State Boat Act shall be remitted  
25 to the State Treasurer for credit to the State Game Fund to be used  
26 primarily for (1) administration and enforcement of the State Boat Act,  
27 (2) boating safety educational programs, (3) the construction and  
28 maintenance of boating and docking facilities, navigation aids, and  
29 access to boating areas and such other uses as will promote the safety  
30 and convenience of the boating public in Nebraska, (4) the Aquatic  
31 Invasive Species Program, and (5) publishing costs subject to the

1 restrictions and limitations in section 37-324. Secondary uses for the  
2 fees shall be for the propagation, importation, protection, preservation,  
3 and distribution of game and fish and necessary equipment therefor and  
4 all things pertaining thereto and for transfers to the General Fund and  
5 the Wildlife Damage Recovery Fund as provided in section 37-324.

6       Sec. 15. Original sections 37-324 and 37-1273, Reissue Revised  
7 Statutes of Nebraska, are repealed.