

SENATE FILE NO. SF0100

Game damage payments.

Sponsored by: Senator(s) Geis and Cathcart and  
Representative(s) Childers and Wostenberg

A BILL

for

1 AN ACT relating to agriculture and wildlife; providing for  
2 payments for specified damages caused by wildlife;  
3 transferring certain duties from the game and fish  
4 department and commission to the department of agriculture  
5 and board of agriculture; establishing a new division  
6 within the department of agriculture to carry out new  
7 duties; creating an account fund to provide for wildlife  
8 damage payments; eliminating current provisions for payment  
9 for damages caused by big game animals; providing an  
10 appropriation; making conforming amendments; and providing  
11 for effective dates.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

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15 **Section 1.** W.S. 11-6-401 through 11-6-406 are created  
16 to read:

1

2

ARTICLE 4

3

WILDLIFE DAMAGE PAYMENT PROGRAM

4

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**11-6-401. Short title.**

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This article may be cited as the "wildlife damage payment program."

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**11-6-402. Definitions.**

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(a) As used in this article:

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(i) "Animal unit month," means the quantity of forage necessary to sustain for one (1) month:

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(A) Two (2) elk;

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(B) Five (5) deer;

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(C) Five (5) antelope;

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(D) Two (2) moose;

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1 (E) Five (5) big horn sheep; or

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3 (F) Five (5) mountain goats.

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5 (ii) "Big game animal" means as defined in W.S.  
6 23-1-101;

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8 (iii) "Board" means the state board of  
9 agriculture;

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11 (iv) "Crop" means corn, oats, wheat, barley,  
12 flax, sorghums and other grains, potatoes, vegetables,  
13 forage legumes, hay, trees and any other product of  
14 cultivation, excluding grasses or other forage on lands  
15 primarily used for pasturage;

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17 (v) "Director" means the director of the  
18 department of agriculture;

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20 (vi) "Division" means the wildlife damage  
21 division within the department of agriculture;

22

23 (vii) "Permitted hunting" means to operate lands  
24 in such a manner as to allow or provide for hunting on

1 those lands and access over those lands to adjoining lands  
2 to allow for a harvest sufficient to meet objectives for  
3 the area and wildlife herds as established by the Wyoming  
4 game and fish commission;

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6 (viii) "Verified claim" means a claim which the  
7 claimant has signed and sworn to be accurate before a  
8 person authorized to administer oaths.

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10 **11-6-403. Owner of damaged property to report damage;**  
11 **claims for damages; time for filing; determination; appeal;**  
12 **arbitration.**

13

14 (a) Any landowner, lessee or agent whose property is  
15 being damaged by any of the big game animals of this state  
16 shall, not later than fifteen (15) days after the damage is  
17 discovered by the owner of the property or the  
18 representative of the owner, report the damage to the  
19 wildlife damage division and to the nearest game warden or  
20 damage control warden.

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22 (b) Any landowner, lessee or agent claiming damages  
23 from the state for injury or destruction of property by big  
24 game animals of this state shall present a verified claim

1 for the damages to the division not later than sixty (60)  
2 days after the damage or last item of damage is discovered.  
3 The claim shall specify the damage and amount claimed.

4  
5 (c) The division shall consider the claims for  
6 damages to property other than damage to grass based upon a  
7 description of the damaged land, growing cultivated crops,  
8 stored crops, seed crops and improvements. Claims for  
9 damage to grass shall be considered and acted upon as  
10 provided in this section, except to the extent in conflict  
11 with the provisions of W.S. 11-6-404. Claims shall be  
12 investigated by the division and rejected or allowed within  
13 ninety (90) days after submission, and paid in the amount  
14 determined to be due. The division may request  
15 verification of the claim by any game warden or damage  
16 control warden in the county from which the claim arose.  
17 In the event the division fails to act within ninety (90)  
18 days, the claim, including interest based on local bank  
19 preferred rates, shall be deemed to have been allowed. No  
20 award shall be allowed to any landowner who has not  
21 permitted hunting on his property during authorized hunting  
22 seasons. Any person failing to comply with any provision  
23 of this section is barred from making any claim against the  
24 division or any other state entity for damages. Any

1 claimant aggrieved by the decision of the division may  
2 appeal to the board within thirty (30) days after receipt  
3 of the decision of the division as provided by rules of  
4 practice and procedure promulgated by the board. The board  
5 shall review the division decision at its next meeting  
6 following receipt of notice of request for review. The  
7 board shall review the investigative report of the  
8 division, and may approve, modify or reverse the decision  
9 of the division.

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11 (d) Within ninety (90) days after receiving notice of  
12 the decision of the board, the claimant may in writing to  
13 the division call for arbitration. Within fifteen (15)  
14 days after the division receives the call for arbitration,  
15 the claimant and the division shall each appoint a  
16 disinterested arbitrator who is an elector residing in the  
17 county where the damage occurred and notify each other of  
18 the appointment. Within twenty (20) days after their  
19 appointment, the two (2) arbitrators shall appoint a third  
20 arbitrator possessing the same qualifications. If the third  
21 arbitrator is not appointed within the time prescribed, the  
22 judge of the district court of the county or the court  
23 commissioner in the absence of the judge shall appoint the  
24 third arbitrator upon the application of either arbitrator.

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2 (e) At least twenty (20) days before the hearing, the  
3 board of arbitrators shall provide the claimant and  
4 division notice of the time and place in the county when  
5 and where the parties will be heard and the claim  
6 investigated and decided by the board of arbitrators. A  
7 written copy of the decision shall be promptly served upon  
8 each party. Within ten (10) days after receipt of the  
9 decision, either party may apply to the board of  
10 arbitrators for modification of the decision under W.S.  
11 1-36-111. Either party may apply to the district court for  
12 vacation of a decision under W.S. 1-36-114(a) or correction  
13 or modification of a decision under W.S. 1-36-115 within  
14 thirty (30) days after receipt of the decision or within  
15 twenty (20) days after action by the board of arbitrators  
16 on an application for modification under W.S. 1-36-111.

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18 (f) If no applications under subsection (e) of this  
19 section are made after receipt of the decision, the  
20 division shall promptly pay the amount, if any, including  
21 interest based on local bank preferred rates, awarded by  
22 the board of arbitrators. Within thirty (30) days after  
23 the award is final, the board of arbitrators' reasonable  
24 service and expense charges shall be paid by:

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(i) The claimant if the award is no greater than the amount originally authorized by the division;

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(ii) Otherwise, the division.

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**11-6-404. Damages to grass; when compensable; calculation of damages.**

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(a) A claim submitted in accordance with W.S. 11-6-403 for damages to grasses or other forage on lands primarily used for pasturage shall be investigated and considered by the division based upon an animal unit month calculation or grazing capacity lost as follows:

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(i) The claim shall be allowed if the consumption or use of or damage to noncultivated grass plants or other forage by big game animals was in excess of historic wildlife use levels;

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(ii) The amount of damage shall be:

(A) The difference between the grazing capacity of the area and the amount of grazing actually



1 realized by the claimant, provided the amount of damages as  
2 calculated in this manner could have been caused by the  
3 number and kinds of big game animals documented to have  
4 used the area, otherwise;

5

6 (B) Calculated on the basis of the number  
7 of big game animals counted on the property during the  
8 damage period.

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10 (iii) The calculations used to determine damages  
11 under paragraph (ii) of this subsection shall be based upon  
12 an animal unit month equivalent adopted by rule of the  
13 division for each big game species as provided by W.S.  
14 11-6-402(a)(i).

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16 **11-6-405. Wildlife damage account created; revenues**  
17 **deposited; appropriations; payments for damages from the**  
18 **account.**

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20 There is created the wildlife damage payment account within  
21 the special revenue fund. The account shall contain only  
22 such money as may be appropriated by the legislature for  
23 the purposes set forth in this article. Interest earned on  
24 the account shall be credited to the account. Funds in the

1 account are continuously appropriated for use and  
2 expenditure by the division for the costs of administering  
3 the program, including damage payments, under this article.  
4 Itemized vouchers shall be submitted to the director for  
5 approval. Upon approval, a warrant for the payment of each  
6 voucher shall be issued by the state auditor for payment  
7 from the account.

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9 **11-6-406. Rulemaking.**

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11 The director, after consultation with the board, shall  
12 adopt rules necessary to carry out the duties of the  
13 division under this article. The board shall adopt rules  
14 of practice and procedure to carry out its duties under  
15 W.S. 11-6-403(c).

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17 **Section 2.** W.S. 11-2-101(a), 23-1-901(a) and (b) and  
18 23-2-101(e) are amended to read:

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20 **11-2-101. Department and board created; director.**

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22 (a) A state department of agriculture is created  
23 under the management and control of the director with the  
24 advice of the board of agriculture. The director shall

1 establish a wildlife damage division within the department  
2 to carry out the duties established in the wildlife damage  
3 payment program created by W.S. 11-6-401 et seq.

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5 **23-1-901. Owner of damaged property to report damage;**  
6 **claims for damages; time for filing; determination; appeal;**  
7 **arbitration.**

8

9 (a) Any landowner, lessee or agent whose property is  
10 being damaged by any of the ~~big or~~ trophy game animals or  
11 game birds of this state shall, not later than fifteen (15)  
12 days after the damage is discovered by the owner of the  
13 property or the representative of the owner, report the  
14 damage to the nearest game warden, damage control warden,  
15 supervisor or commission member.

16

17 (b) Any landowner, lessee or agent claiming damages  
18 from the state for injury or destruction of property by ~~big~~  
19 ~~or~~ trophy game animals or game birds of this state shall  
20 present a verified claim for the damages to the Wyoming  
21 game and fish department not later than sixty (60) days  
22 after the damage or last item of damage is discovered. The  
23 claim shall specify the damage and amount claimed. As used  
24 in this subsection, "verified claim" means a claim which

1 the claimant has signed and sworn to be accurate before a  
2 person authorized to administer oaths.

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4 **23-2-101. Fees; restrictions; nonresident application**  
5 **fee; nonresident licenses; verification of residency**  
6 **required.**

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8 (e) Resident and nonresident license applicants shall  
9 pay an application fee in an amount specified by this  
10 subsection upon submission of an application for purchase  
11 of any limited quota drawing for big or trophy game license  
12 or wild bison license. The resident application fee shall  
13 be three dollars (\$3.00) and the nonresident application  
14 fee shall be ten dollars (\$10.00). The application fee is  
15 in addition to the fees prescribed by subsections (f) and  
16 (j) of this section and by W.S. 23-2-107 and shall be  
17 payable to the department either directly or through an  
18 authorized selling agent of the department. At the  
19 beginning of each month, the commission shall set aside all  
20 of the fees collected during calendar year 1980 and not to  
21 exceed twenty-five percent (25%) of the fees collected  
22 thereafter pursuant to this subsection to establish and  
23 maintain a working balance of five hundred thousand dollars

1 (\$500,000.00), to compensate owners or lessees of property  
2 damaged by trophy game animals and game birds.

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4 **Section 3.** There is appropriated from the general  
5 fund one hundred thousand dollars (\$100,000.00) to the  
6 wildlife damage account created by W.S. 11-6-405 for the  
7 purposes of this act.

8

9 **Section 4.**

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11 (a) Section 3 of this act and the creation of the  
12 wildlife damage payment account and rulemaking authority  
13 granted under section 1 of this act are effective July 1,  
14 2003.

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16 (b) Except as provided in subsection (a) of this  
17 section, this act is effective July 1, 2004.

18

19 (END)