

# A-Engrossed House Bill 4061

Ordered by the House February 16  
Including House Amendments dated February 16

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture, Land Use, Natural Resources, and Water for Representative Ken Helm)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act directs an agency to create a program related to elk damage. The Act establishes a fund for the program. The Act gives moneys to the agency for the program. (Flesch Readability Score: 70.8).

Directs the State Department of Agriculture to establish an elk damage prevention and compensation pilot program.

Establishes the Elk Damage Prevention and Compensation Fund in the State Treasury. Continuously appropriates moneys in the fund to the department for implementing the program.

Sunset the program and fund on January 2, 2030.

Directs the department and the State Department of Fish and Wildlife to report on the program to committees or interim committees of the Legislative Assembly related to natural resources on or before September 15, 2028.

Appropriates moneys to the State Department of Agriculture for implementing the program.

Takes effect on the 91st day following adjournment sine die.

## A BILL FOR AN ACT

1 Relating to damage caused by elk; and prescribing an effective date.

2 Whereas it is in the interest of the State of Oregon to encourage coexistence with Oregon  
3 wildlife, including elk populations; and  
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5 Whereas elk cause considerable damage and loss to crops, forage and infrastructure in Oregon;  
6 and

7 Whereas farmers and ranchers are economically impacted by damage caused by elk in a wide  
8 variety of ways, including suffering directly measurable losses, expending time and labor to prevent,  
9 mitigate and address the damage and suffering the opportunity cost of having to forgo growing  
10 certain high-value crops that are attractive to elk; and

11 Whereas a program of limited duration to support farmers and ranchers through prevention and  
12 compensation is viewed as a meaningful part of a larger elk management conversation that aims to  
13 address root causes of human-ungulate conflict in Oregon; and

14 Whereas it is the policy of the State of Oregon that appropriate measures must be taken to as-  
15 sist farmers, ranchers and others in resolving wildlife damage problems, and that federal, state,  
16 county and other local governments involved in wildlife damage control should cooperate in their  
17 related efforts; now, therefore,

18 **Be It Enacted by the People of the State of Oregon:**

## 19 **ELK DAMAGE PREVENTION AND COMPENSATION PILOT PROGRAM**

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**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

**SECTION 1.** As used in this section and sections 2 and 3 of this 2024 Act:

(1) “Best preventive measures” has the meaning given that term in rule by the State Department of Agriculture.

(2) “Eligible damage”:

(a) Means elk damage on eligible land to standing or harvested agricultural crops, including livestock forage, or to infrastructure, including fences or agricultural equipment, that has not been covered by insurance.

(b) May include the cost of third-party assessment of the damage.

(3) “Eligible land” means land:

(a) That is privately owned.

(b) That is not enrolled in a conservation reserve program.

(c) That is in a pilot program area, as determined under section 2 of this 2024 Act.

(d) For which no compensation is received in exchange for, or that relates to, providing permission for a person to hunt on the land.

(4)(a) “Eligible person” means a person who:

(A) Lives on or leases eligible land for at least six consecutive months in the calendar year before the person enrolls in the elk damage prevention and compensation pilot program described in section 2 of this 2024 Act.

(B) Derives \$10,000 or more per year, on average, from producing agricultural crops on the eligible land.

(C) Controls crops or infrastructure that is damaged by elk.

(b) “Eligible person” does not include a person who:

(A) Merely owns real property or pays property taxes in this state; or

(B) Claims resident privileges in another state or country for any purpose.

(5) “Eligible preventive measure” means a measure that is reasonably expected to reduce elk damage on eligible land, including:

(a) Repellants.

(b) Temporary or permanent barriers, such as fencing.

(c) Reasonable time spent on nonlethal deterrence activities such as hazing, but not including labor to build barriers.

**SECTION 2.** (1) The State Department of Agriculture shall establish and implement an elk damage prevention and compensation pilot program.

(2) Under the pilot program, the department shall use available moneys in the Elk Damage Prevention and Compensation Fund established under section 4 of this 2024 Act to provide compensation for eligible damages and eligible preventive measures to eligible persons who suffer loss due to elk damage.

(3) In consultation with the State Department of Fish and Wildlife, the State Department of Agriculture shall select, as two pilot program areas, one area east of the Cascade Mountains and one area west of the Cascade Mountains after considering, for the areas:

(a) The history of elk damage to agriculture.

(b) The timing of elk damage, including throughout the year or seasonally.

(c) Past actions by agencies and landowners to alleviate elk damage.

(d) Elk population sizes and distribution.

(e) Agricultural crop types.

(4) Under the pilot program, the department may award compensation for eligible dam-

1 ages and eligible preventive measures to an eligible person who demonstrates that the eligi-  
2 ble person:

3 (a) Has used one or more best preventive measures to prevent elk damage on the eligible  
4 land in the preceding five calendar years.

5 (b) Has not intentionally or unreasonably created circumstances that attract elk to the  
6 eligible land or otherwise encourage elk damage on the eligible land.

7 **SECTION 3.** To implement the elk damage and compensation pilot program described in  
8 section 2 of this 2024 Act, the State Department of Agriculture shall adopt rules to establish:

9 (1) A process for enrolling in, and periodically renewing enrollment in, the pilot program  
10 that includes verification of whether or not:

11 (a) The person qualifies as an eligible person.

12 (b) The person has implemented one or more best preventive measures to prevent elk  
13 damage on the eligible land in the preceding five calendar years.

14 (c) The person has intentionally or unreasonably created circumstances that attract elk  
15 to the eligible land or otherwise encourage elk damage on the eligible land.

16 (2) A process for submitting claims, including evidence of eligible damage that includes  
17 a finding by an agent of the department, an agent of the United States Department of Agri-  
18 culture or a crop adjuster licensed under ORS 744.531 (3) that elk caused or probably caused  
19 the eligible damage.

20 (3) A process for assessing claims that describes:

21 (a) How the State Department of Agriculture will assess the cost of eligible damage.

22 (b) The role and selection of professional damage assessors.

23 (c) Whether, or under what circumstances, an eligible person may be reimbursed for the  
24 cost of third-party damage assessment as part of compensation for eligible damages.

25 (4) Methods for determining:

26 (a) Compensation amounts for eligible damage, such as a net loss in production at the  
27 end of a growing season relative to regional averages and anticipated loss rates.

28 (b) Compensation amounts for reasonable time spent on nonlethal elk deterrence activ-  
29 ities such as hazing.

30 (c) How to reduce the amount of a claim that has been partially compensated by an in-  
31 surance company.

32 (d) Maximum amounts for compensation for eligible damages and eligible preventive  
33 measures.

34 (5) A process for prioritizing awards of compensation to eligible persons who:

35 (a) Can demonstrate having made significant efforts to prevent or mitigate elk damage.

36 (b) Allow persons licensed by the State Department of Fish and Wildlife to take elk on  
37 the property that is affected by the elk damage.

38 (6) A definition of the term “best preventive measures” that lists ways to deter elk  
39 damage, including:

40 (a) Nonlethal deterrence activities; and

41 (b) The provision of hunting access for the lethal taking of elk, consistent with applicable  
42 laws and rules, by permission, to the public or to individuals, without receipt of compen-  
43 sation in exchange for, or that relates to, the permission.

44 (7) The terms for awarding compensation for large area barriers, such as fencing, in-  
45 cluding requiring:

1 (a) Matching funds from the eligible person.

2 (b) That the eligible person demonstrate previous use of repellants, hazing and temporary  
3 barriers and that those measures did not adequately prevent elk damage.

4 (c) That the large area barriers conform to design standards established by the depart-  
5 ment pursuant to subsection (8) of this section.

6 (8) Design standards for large area barriers, in consultation with the State Department  
7 of Fish and Wildlife.

8 **SECTION 4.** (1) The Elk Damage Prevention and Compensation Fund is established in the  
9 State Treasury, separate and distinct from the General Fund. Interest earned by the Elk  
10 Damage Prevention and Compensation Fund shall be credited to the fund.

11 (2) The Elk Damage Prevention and Compensation Fund consists of moneys appropriated  
12 by the Legislative Assembly for deposit in the fund, grant funds received by the State De-  
13 partment of Agriculture, and other moneys appropriated to, allocated to, deposited in, cred-  
14 ited to or transferred to the fund by the Legislative Assembly or otherwise.

15 (3) Moneys in the fund are continuously appropriated to the department for purposes  
16 described in section 2 of this 2024 Act.

17 **SECTION 5.** (1) Sections 1 to 4 of this 2024 Act are repealed on January 2, 2030.

18 (2) Any moneys remaining in the Elk Damage Prevention and Compensation Fund es-  
19 tablished under section 4 of this 2024 Act that are unexpended and unobligated on the date  
20 specified in subsection (1) of this section shall revert to the General Fund.

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22 **REPORTS**  
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24 **SECTION 6.** As soon as there is sufficient data and no later than September 15, 2028:

25 (1) The State Department of Agriculture shall report, in the manner prescribed in ORS  
26 192.245, to committees or interim committees of the Legislative Assembly related to natural  
27 resources on the elk damage prevention and compensation pilot program described in section  
28 2 of this 2024 Act. The report must include:

29 (a) A summary of pilot program descriptive statistics, including but not limited to:

30 (A) The number of persons participating in the pilot program.

31 (B) The types and quantities of damage reported under the pilot program.

32 (C) The amounts awarded under the pilot program.

33 (b) An evaluation of successes and challenges in administering the pilot program.

34 (c) A proposal for a permanent elk damage and compensation program.

35 (d) An evaluation of the benefits and drawbacks of transitioning to a program that is  
36 partially administered by counties.

37 (2) The State Department of Fish and Wildlife shall report, in the manner prescribed in  
38 ORS 192.245, to committees or interim committees of the Legislative Assembly related to  
39 natural resources on the pilot program. The report must:

40 (a) Compare the occurrence of elk damage inside and outside, and over time within, the  
41 pilot program areas.

42 (b) Analyze changes to elk hunting opportunities within the pilot program areas.

43 (c) Summarize information on elk population sizes throughout this state.

44 (d) Summarize any available information on elk distribution throughout this state.

45 (e) Describe the types of data that would assist with better understanding elk distribution

1 throughout this state and how the data might be obtained.

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3 **APPROPRIATION**

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5 **SECTION 7.** In addition to and not in lieu of any other appropriation, there is appropri-  
6 ated to the State Department of Agriculture, for the biennium ending June 30, 2025, out of  
7 the General Fund, the amount of \$600,000, for deposit in the Elk Damage Prevention and  
8 Compensation Fund established by section 4 of this 2024 Act, to be expended as described in  
9 section 4 of this 2024 Act.

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11 **CAPTIONS**

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13 **SECTION 8.** The unit captions used in this 2024 Act are provided only for the convenience  
14 of the reader and do not become part of the statutory law of this state or express any leg-  
15 islative intent in the enactment of this 2024 Act.

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17 **EFFECTIVE DATE**

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19 **SECTION 9.** This 2024 Act takes effect on the 91st day after the date on which the 2024  
20 regular session of the Eighty-second Legislative Assembly adjourns sine die.

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