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**SUBSTITUTE HOUSE BILL 2498**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Corry, Blake, Walsh, Mosbrucker, Chandler, Hoff, Dye, Graham, Davis, Dent, Dufault, Van Werven, Maycumber, Rude, Ybarra, Lekanoff, Eslick, and Leavitt)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to providing compensation to department of  
2 natural resources lessees whose leases are terminated for reasons  
3 other than default; and amending RCW 79.13.420.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 79.13.420 and 2017 c 56 s 1 are each amended to read  
6 as follows:

7 (1) For the purposes of this section, "nondefault or early  
8 termination provision" means a provision that authorizes the  
9 department to terminate a lease in the event the department includes  
10 the leased land in a plan for higher and better use, land exchange,  
11 or sale.

12 (2) Any nondefault or early termination provision included in a  
13 state land lease for agricultural or grazing purposes must:

14 (a) Require advance written notice of at least one hundred eighty  
15 days by the department to the lessee prior to termination of the  
16 lease; and

17 (b) Require the department to provide to the lessee, along with  
18 the notice under (a) of this subsection, written documentation  
19 demonstrating that the department has included the leased land in a  
20 plan for higher and better use, land exchange, or sale.

1 (3) This section does not require the department to include a  
2 nondefault or early termination provision in any state land lease for  
3 agricultural or grazing purposes.

4 (4) This section does not prohibit the department from allowing  
5 the lessee to surrender the leasehold subject to terms provided in  
6 the lease.

7 (5) This section does not prohibit the department from executing  
8 other lease provisions designed to protect the interests of the  
9 lessee in the event that the lease is terminated under a nondefault  
10 or early termination provision.

11 (6) In the event that the department exercises a nondefault or  
12 early termination provision in a state land lease for agricultural or  
13 grazing purposes, the department shall compensate the lessee  
14 according to the following schedule:

15 (a) For grazing leases, the department shall pay to the lessee  
16 the annual rent for the land subject to the lease, multiplied by a  
17 factor of six, except that the department need not compensate the  
18 lessee for any years that are specifically designated in the lease as  
19 nongrazing years.

20 (b) For agricultural leases, the department shall pay to the  
21 lessee the expected net return the lessee would have realized from  
22 crops raised on the leased land, which shall be calculated according  
23 to the following formula: The annual net revenue per acre for the  
24 class of crop produced by the lessee, less the rental rate per acre  
25 for the land leased by the lessee; multiplied by the number of acres  
26 leased by the lessee. For purposes of this subsection, the annual net  
27 revenue per acre for a class of crop must be calculated according to  
28 the most recent rolling average annual net rental return per acre for  
29 that class of crop as established by the county assessor of the  
30 county in which the leased land is located or, if the county assessor  
31 of the county in which the land is located has not established an  
32 annual net rental return per acre, as established by the county  
33 assessor of the nearest county in which the county assessor has  
34 established such an annual net rental return per acre. The annual net  
35 rental return per acre, as established by the county assessor, must  
36 be adjusted to reflect the total annual net revenue per acre.

37 (c) For both grazing leases and agricultural leases, the  
38 department shall make payments to the lessee on an annual basis for  
39 the remaining term of the terminated lease, unless the department and  
40 the lessee agree to an alternate schedule of payments. In the event

1 that payments are made on any schedule other than on an annual basis,  
2 any advance payments must be subjected to an appropriate discount  
3 rate in order to reflect the net present value of the compensation  
4 owed by the department.

5 (d) For both grazing leases and agricultural leases, in the event  
6 that the lessee has placed any improvements, as authorized under RCW  
7 79.13.050, on the land that is subject to the lease, the department  
8 is responsible for compensating the lessee for the value of the  
9 improvements. In the event that an agreement cannot be reached  
10 between the state and the lessee on the fair market value of the  
11 improvements, the valuation must be determined as prescribed under  
12 RCW 79.13.160.

13 (7) In the event that the department's exercise of a nondefault  
14 or early termination provision in a state land lease for agricultural  
15 or grazing purposes results in the removal of fencing from the land  
16 subject to the lease, the department is responsible for ensuring the  
17 replacement of any removed fencing.

18 (8) In the event that the department's exercise of a nondefault  
19 or early termination provision in a state land lease for agricultural  
20 or grazing purposes causes the lessee to incur a financial penalty as  
21 a result of an early withdrawal from a natural resources conservation  
22 service program, the department is responsible for reimbursing the  
23 lessee for payment of the financial penalty.

24 (9) The compensation and reimbursement available to a lessee  
25 under subsections (6) and (8) of this section, respectively, is the  
26 sole financial remedy available to the lessee based on the  
27 department's exercise of a nondefault or early termination provision  
28 in an agriculture or grazing lease. Appeal rights under RCW 79.02.030  
29 are unaffected by the relief provided in this section.

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