

1 HOUSE BILL NO. 469

2 INTRODUCED BY C. CLARK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING AND SIMPLIFYING THE NAME OF THE LIVESTOCK
5 LOSS REDUCTION AND MITIGATION BOARD; AMENDING SECTIONS 2-15-3110, 2-15-3111, 2-15-3112,
6 2-15-3113, AND 81-1-110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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8 WHEREAS, the Legislature has been made aware that the name of the Livestock Loss Reduction and
9 Mitigation Board is too long, too confusing, and does not adequately communicate the mission of the Board to
10 the public; and

11 WHEREAS, the Legislature has been asked by Montana citizens to change the name of the Montana
12 Livestock Loss Reduction and Mitigation Board to something simpler and better representative of the Board's
13 public purpose; and

14 WHEREAS, the Legislature finds that it would be beneficial to the Board's mission and duties as that
15 mission and duties are set forth in state law to change the name of the Livestock Loss Reduction and Mitigation
16 Board to something simpler.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19
20 **Section 1.** Section 2-15-3110, MCA, is amended to read:
21 **"2-15-3110. Livestock loss reduction and mitigation board -- purpose, membership, and**
22 **qualifications.** (1) There is a livestock loss ~~reduction and mitigation~~ board. The purpose of the board is to
23 administer the programs called for in the Montana gray wolf management plan and established in 2-15-3111
24 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses
25 caused by wolves to livestock producers and to reimburse livestock producers for livestock losses from wolf
26 predation.

27 (2) The board consists of seven members, appointed by the governor, as follows:
28 (a) three members from a list of names recommended by the board of livestock;
29 (b) three members from a list of names recommended by the fish, wildlife, and parks commission; and
30 (c) one member of the general public.

- 1 (3) Each board member must have knowledge of or have experience in at least one of the following:
- 2 (a) the raising of livestock in Montana;
- 3 (b) livestock marketing, valuations, sales, or breeding associations;
- 4 (c) the interaction of wolves with livestock and livestock mortality caused by wolves;
- 5 (d) wildlife conservation;
- 6 (e) administration; and
- 7 (f) fundraising.
- 8 (4) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the
- 9 provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.
- 10 (5) The board is allocated to the department of livestock for administrative purposes only as provided
- 11 in 2-15-121.
- 12 (6) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114, 81-1-110,
- 13 and 81-1-111."

14

15 **Section 2.** Section 2-15-3111, MCA, is amended to read:

16 **"2-15-3111. Livestock loss reduction program.** The livestock loss ~~reduction and mitigation~~ board shall

17 establish and administer a program to cost-share with individuals or incorporated entities in implementing

18 measures to prevent wolf predation on livestock, including:

- 19 (1) eligibility requirements for program participation;
- 20 (2) application procedures for program participation and procedures for awarding grants for wolf
- 21 predation prevention measures, subject to grant priorities and the availability of funds;
- 22 (3) criteria for the selection of projects and program participants, which may include establishment of
- 23 grant priorities based on factors such as chronic depredation, multiple depredation incidents, single depredation
- 24 incidents, and potential high-risk geographical or habitat location;
- 25 (4) grant guidelines for prevention measures on public and private lands, including:
- 26 (a) grant terms that clearly set out the obligations of the livestock producer and that provide for a term
- 27 of up to 12 months subject to renewal based on availability of funds, satisfaction of program requirements, and
- 28 prioritization of the project;
- 29 (b) cost-share for prevention measures, which may be a combination of grant and livestock producer
- 30 responsibility, payable in cash or in appropriate services, such as labor to install or implement preventive

1 measures, unless the board adjusts the cost-share because of extenuating circumstances related to chronic or
2 multiple depredation; and

3 (c) proactive preventive measures, including but not limited to fencing, fladry, night penning, increased
4 human presence in the form of livestock herders and riders, guard animals, providing hay and dog food, rental
5 of private land or alternative pasture allotments, delayed turnouts, and other preventive measures as information
6 on new or different successful prevention measures becomes available; and

7 (5) reporting requirements for program participants to assist in determining the effectiveness of loss
8 reduction relative to each grant."

9

10 **Section 3.** Section 2-15-3112, MCA, is amended to read:

11 **"2-15-3112. Livestock loss mitigation program -- definitions.** The livestock loss ~~reduction and~~
12 ~~mitigation~~ board shall establish and administer a program to reimburse livestock producers for livestock losses
13 caused by wolves, subject to the following provisions:

14 (1) The board shall establish eligibility requirements for reimbursement, which must provide that all
15 Montana livestock producers are eligible for coverage for losses by wolves to cattle, swine, horses, mules, sheep,
16 goats, llamas, and livestock guard animals on state, federal, and private land and on tribal land that is eligible
17 through agreement pursuant to 2-15-3113(2).

18 (2) Confirmed and probable livestock losses must be reimbursed at an amount not to exceed fair market
19 value as determined by the board.

20 (3) Other losses may be reimbursed at rates determined by the board.

21 (4) A claim process must be established to be used when a livestock producer suffers a livestock loss
22 for which wolves may be responsible. The claim process must set out a clear and concise method for
23 documenting and processing claims for reimbursement for livestock losses.

24 (5) A process must be established to allow livestock producers to appeal reimbursement decisions. A
25 producer may appeal a staff adjuster's decision by notifying the staff adjuster and the board in writing, stating the
26 reasons for the appeal and providing documentation supporting the appeal. If the documentation is incomplete,
27 the board or a producer may consult with the U.S. department of agriculture wildlife services to complete the
28 documentation. The board may not accept any appeal on the question of whether the loss was or was not a
29 confirmed or probable loss because that final determination lies solely with the U.S. department of agriculture
30 wildlife services and may not be changed by the board. The board shall hold a hearing on the appeal within 90

1 days of receipt of the written appeal, allowing the staff adjuster and the producer to present their positions. A
2 decision must be rendered by the board within 30 days after the hearing. The producer must be notified in writing
3 of the board's decision.

4 (6) As used in this section, the following definitions apply:

5 (a) "Confirmed" means reasonable physical evidence that livestock was actually attacked or killed by
6 a wolf, including but not limited to the presence of bite marks indicative of the spacing of canine tooth punctures
7 of wolves and associated subcutaneous hemorrhaging and tissue damage indicating that the attack occurred
8 while the animal was alive, feeding patterns on the carcass, fresh tracks, scat, hair rubbed off on fences or brush,
9 eyewitness accounts, or other physical evidence that allows a reasonable inference of wolf predation on an
10 animal that has been largely consumed.

11 (b) "Fair market value" means:

12 (i) for commercial sheep more than 1 year old, the average price of sheep of similar age and sex paid
13 at the most recent Billings livestock sale ring or other ring as determined by the board;

14 (ii) for commercial lambs, the average market weaning value;

15 (iii) for registered sheep, the average price paid to the specific breeder for sheep of similar age and sex
16 during the past year at public or private sales for that registered breed;

17 (iv) for commercial cattle more than 1 year old, the average price of cattle of similar age and sex paid at
18 the most recent Billings livestock sale ring or other ring as determined by the board;

19 (v) for commercial calves, the average market weaning value;

20 (vi) for registered cattle, the average price paid to the owner for cattle of similar age and sex during the
21 past year at public or private sales for that registered breed;

22 (vii) for other registered livestock, the average price paid to the producer at public or private sales for
23 animals of similar age and sex. A producer may provide documentation that a registered animal has a fair market
24 value in excess of the average price, in which case the board shall seek additional verification of the value of the
25 animal from independent sources. If the board determines that the value of that animal is greater than the average
26 price, then the increased value must be accepted as the fair market value for that animal.

27 (viii) for other livestock, the average price paid at the most recent public auction for the type of animal
28 lost or the replacement price as determined by the board.

29 (c) "Probable" means the presence of some evidence to suggest possible predation but a lack of
30 sufficient evidence to clearly confirm predation by a particular species. A kill may be classified as probable

1 depending on factors including but not limited to recent confirmed predation by the suspected depredating
2 species in the same or a nearby area, recent observation of the livestock by the owner or the owner's employees,
3 and telemetry monitoring data, sightings, howling, or fresh tracks suggesting that the suspected depredating
4 species may have been in the area when the depredation occurred."
5

6 **Section 4.** Section 2-15-3113, MCA, is amended to read:

7 **"2-15-3113. Additional powers and duties of livestock loss ~~reduction and mitigation~~ board.** (1)

8 The livestock loss ~~reduction and mitigation~~ board shall:

9 (a) process claims;

10 (b) seek information necessary to ensure that claim documentation is complete;

11 (c) provide payments authorized by the board for confirmed and probable livestock losses, along with
12 a written explanation of payment;

13 (d) submit monthly and annual reports to the board of livestock summarizing claims and expenditures
14 and the results of action taken on claims and maintain files of all claims received, including supporting
15 documentation;

16 (e) provide information to the board of livestock regarding appealed claims and implement any decision
17 by the board;

18 (f) prepare the annual budget for the board; and

19 (g) provide proper documentation of staff time and expenditures.

20 (2) The livestock loss ~~reduction and mitigation~~ board may enter into an agreement with any Montana
21 tribe, if the tribe has adopted a wolf management plan for reservation lands that is consistent with the state wolf
22 management plan, to provide that tribal lands within reservation boundaries are eligible for mitigation grants
23 pursuant to 2-15-3111 and that livestock losses on tribal lands within reservation boundaries are eligible for
24 reimbursement payments pursuant to 2-15-3112.

25 (3) The livestock loss ~~reduction and mitigation~~ board shall:

26 (a) coordinate and share information with state, federal, and tribal officials, livestock producers,
27 nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves;

28 (b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses
29 caused by wolves;

30 (c) perform or contract for the performance of periodic program audits and reviews of program

1 expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction
2 grants and reimbursement payments;

3 (d) adjudicate appeals of claims;

4 (e) investigate alternative or enhanced funding sources, including possible agreements with public
5 entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in
6 place;

7 (f) meet as necessary to conduct business; and

8 (g) report annually to the governor, the legislature, members of the Montana congressional delegation,
9 the board of livestock, the fish, wildlife, and parks commission, and the public regarding results of the programs
10 established in 2-15-3111 through 2-15-3113."

11

12 **Section 5.** Section 81-1-110, MCA, is amended to read:

13 **"81-1-110. Livestock loss reduction and mitigation accounts.** (1) There are livestock loss reduction
14 and mitigation special revenue accounts administered by the department within the state special revenue fund
15 and the federal special revenue fund established in 17-2-102.

16 (2) (a) All state proceeds allocated or budgeted for the purposes of 2-15-3110 through 2-15-3114,
17 81-1-110, and 81-1-111, except those appropriated to the department of livestock, must be deposited in the state
18 special revenue account provided for in subsection (1) of this section.

19 (b) Money received by the state in the form of gifts, grants, reimbursements, or allocations from any
20 source intended to be used for the purposes of 2-15-3111 through 2-15-3113 must be deposited in the
21 appropriate account provided for in subsection (1) of this section.

22 (c) All federal funds awarded to the state for compensation for wolf depredations on livestock must be
23 deposited in the federal special revenue account provided for in subsection (1) for the purposes of 2-15-3112.

24 (3) The livestock loss ~~reduction and mitigation~~ board may spend funds in the accounts only to carry out
25 the provisions of 2-15-3111 through 2-15-3113."

26

27 **NEW SECTION. SECTION 6. NAME CHANGE -- DIRECTIONS TO CODE COMMISSIONER. WHEREVER A**
28 **REFERENCE TO THE "LIVESTOCK LOSS REDUCTION AND MITIGATION BOARD" APPEARS IN LEGISLATION ENACTED BY THE**
29 **2011 LEGISLATURE, THE CODE COMMISSIONER IS DIRECTED TO CHANGE IT TO A REFERENCE TO THE "LIVESTOCK LOSS**
30 **BOARD"**.

1

2 NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

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