

HOUSE BILL NO. 322

INTRODUCED BY M. CUFFE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE LIVESTOCK LOSS
5 PROGRAMS; CREATING A LIVESTOCK LOSS REDUCTION RESTRICTED ACCOUNT; TRANSFERRING
6 GENERAL FUND MONEY ON AN ANNUAL BASIS; PROVIDING A STATUTORY APPROPRIATION; ADDING
7 LIVESTOCK LOSSES DUE TO GRIZZLY BEAR PREDATION TO THE LIVESTOCK LOSS PROGRAMS;
8 AMENDING SECTIONS 2-15-3110, 2-15-3111, 2-15-3112, 2-15-3113, 15-1-122, 17-7-502, 81-1-110, AND
9 81-1-112, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 NEW SECTION. **Section 1. Livestock loss reduction restricted account.** (1) There is an account
14 in the state special revenue fund established by 17-2-102 to be known as the livestock loss reduction restricted
15 special revenue account. The account is administered by the department.

16 (2) ~~Each fiscal year the amount provided in 15-1-122(4) is transferred to the account from the state~~
17 ~~general fund.~~ Except as provided in subsection (4), the money TRANSFERRED IN 15-1-122(4) TO THE ACCOUNT FROM
18 THE STATE GENERAL FUND is restricted to the purposes of reducing predation on livestock by wolves and grizzly
19 bears and reducing expenses incurred by livestock owners, including but not limited to veterinary bills ~~and~~
20 ~~livestock weight loss and reduced pregnancy rates~~, caused by wolves and grizzly bears.

21 ~~(3) The livestock loss board may use at least half of the money transferred into the account pursuant to~~
22 ~~subsection (2) to contract with the U.S. department of agriculture wildlife services to reduce predation of livestock.~~

23 (3) TO REDUCE PREDATION OF LIVESTOCK, THE LIVESTOCK LOSS BOARD:

24 (A) SHALL USE AT LEAST HALF OF THE MONEY TRANSFERRED INTO THE ACCOUNT PURSUANT TO SUBSECTION (2)
25 ON NONLETHAL, PREVENTATIVE MEASURES; AND

26 (B) MAY USE AT LEAST HALF OF THE MONEY TRANSFERRED INTO THE ACCOUNT PURSUANT TO SUBSECTION (2)
27 TO CONTRACT WITH THE U.S. DEPARTMENT OF AGRICULTURE WILDLIFE SERVICES.

28 (4) (a) Up to 10% of the money in the account may be expended for administrative expenses.

29 (b) If reimbursements to livestock producers for confirmed and probable livestock losses exceed the
30 amount of money available in accounts established in 81-1-110 or 81-1-112, money set aside in subsection (2)

1 may be used to make payments to livestock producers pursuant to 2-15-3112(2).

2 (5) The livestock loss reduction restricted special revenue account is statutorily appropriated, as provided
3 in 17-7-502, to the department for the purposes of this section.

4

5 **Section 2.** Section 2-15-3110, MCA, is amended to read:

6 **"2-15-3110. Livestock loss board -- purpose, membership, and qualifications.** (1) There is a
7 livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf
8 and grizzly bear management ~~plan~~ plans and established in 2-15-3111 through 2-15-3113, with funds provided
9 through the accounts established in 81-1-110, in order to minimize losses caused by wolves and grizzly bears
10 to livestock producers and to reimburse livestock producers for livestock losses from wolf and grizzly bear
11 predation.

12 (2) The board consists of seven members, appointed by the governor, as follows:

13 (a) three members from a list of names recommended by the board of livestock;

14 (b) three members from a list of names recommended by the fish, wildlife, and parks commission; and

15 (c) one member of the general public.

16 (3) Each board member must have knowledge of or have experience in at least one of the following:

17 (a) the raising of livestock in Montana;

18 (b) livestock marketing, valuations, sales, or breeding associations;

19 (c) the interaction of wolves and grizzly bears with livestock and livestock mortality caused by wolves
20 and grizzly bears;

21 (d) wildlife conservation;

22 (e) administration; and

23 (f) fundraising.

24 (4) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the
25 provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.

26 (5) The board is allocated to the department of livestock for administrative purposes only as provided
27 in 2-15-121.

28 (6) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114, ~~and~~
29 81-1-110 through 81-1-112, and [section 1]."

30

1 **Section 3.** Section 2-15-3111, MCA, is amended to read:

2 **"2-15-3111. Livestock loss reduction program.** The livestock loss board shall establish and administer
3 a program to cost-share with individuals or incorporated entities in implementing measures to prevent wolf and
4 grizzly bear predation on livestock, including:

5 (1) eligibility requirements for program participation;

6 (2) application procedures for program participation and procedures for awarding grants for wolf and
7 grizzly bear predation prevention measures, subject to grant priorities and the availability of funds;

8 (3) criteria for the selection of projects and program participants, which may include establishment of
9 grant priorities based on factors such as chronic depredation, multiple depredation incidents, single depredation
10 incidents, and potential high-risk geographical or habitat location;

11 (4) grant guidelines for prevention measures on public and private lands, including:

12 (a) grant terms that clearly set out the obligations of the livestock producer and that provide for a term
13 of up to 12 months subject to renewal based on availability of funds, satisfaction of program requirements, and
14 prioritization of the project;

15 (b) cost-share for prevention measures, which may be a combination of grant and livestock producer
16 responsibility, payable in cash or in appropriate services, such as labor to install or implement preventive
17 measures, unless the board adjusts the cost-share because of extenuating circumstances related to chronic or
18 multiple depredation; and

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

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

25

26 **Section 4.** Section 2-15-3112, MCA, is amended to read:

27 **"2-15-3112. Livestock loss mitigation program -- definitions.** The livestock loss board shall establish
28 and administer a program to reimburse livestock producers for livestock losses caused by wolves and grizzly
29 bears, subject to the following provisions:

30 (1) The board shall establish eligibility requirements for reimbursement, which must provide that all

1 Montana livestock producers are eligible for coverage for losses by wolves and grizzly bears to cattle, swine,
2 horses, mules, sheep, goats, llamas, and livestock guard animals on state, federal, and private land and on tribal
3 land that is eligible through agreement pursuant to 2-15-3113(2).

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

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

7 (4) A claim process must be established to be used when a livestock producer suffers a livestock loss
8 for which wolves or grizzly bears may be responsible. The claim process must set out a clear and concise method
9 for documenting and processing claims for reimbursement for livestock losses.

10 (5) A process must be established to allow livestock producers to appeal reimbursement decisions. A
11 producer may appeal a staff adjuster's decision by notifying the staff adjuster and the board in writing, stating the
12 reasons for the appeal and providing documentation supporting the appeal. If the documentation is incomplete,
13 the board or a producer may consult with the U.S. department of agriculture wildlife services to complete the
14 documentation. The board may not accept any appeal on the question of whether the loss was or was not a
15 confirmed or probable loss because that final determination lies solely with the U.S. department of agriculture
16 wildlife services and may not be changed by the board. The board shall hold a hearing on the appeal within 90
17 days of receipt of the written appeal, allowing the staff adjuster and the producer to present their positions. A
18 decision must be rendered by the board within 30 days after the hearing. The producer must be notified in writing
19 of the board's decision.

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

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

27 (b) "Fair market value" means:

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

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

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

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

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

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

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

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

15 (c) "Probable" means the presence of some evidence to suggest possible predation but a lack of
16 sufficient evidence to clearly confirm predation by a particular species. A kill may be classified as probable
17 depending on factors including but not limited to recent confirmed predation by the suspected depredating
18 species in the same or a nearby area, recent observation of the livestock by the owner or the owner's employees,
19 and telemetry monitoring data, sightings, howling, or fresh tracks suggesting that the suspected depredating
20 species may have been in the area when the depredation occurred."

21

22 **Section 5.** Section 2-15-3113, MCA, is amended to read:

23 **"2-15-3113. Additional powers and duties of livestock loss board.** (1) The livestock loss board shall:

24 (a) process claims;

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

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

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

- 1 (e) provide information to the board of livestock regarding appealed claims and implement any decision
2 by the board;
- 3 (f) prepare the annual budget for the board; and
- 4 (g) provide proper documentation of staff time and expenditures.
- 5 (2) The livestock loss board may enter into an agreement with any Montana tribe, if the tribe has adopted
6 a wolf or grizzly bear management plan for reservation lands that is consistent with the state wolf or grizzly bear
7 management plan, to provide that tribal lands within reservation boundaries are eligible for mitigation grants
8 pursuant to 2-15-3111 and that livestock losses on tribal lands within reservation boundaries are eligible for
9 reimbursement payments pursuant to 2-15-3112.
- 10 (3) The livestock loss board shall:
- 11 (a) coordinate and share information with state, federal, and tribal officials, livestock producers,
12 nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves
13 and grizzly bears;
- 14 (b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses
15 caused by wolves and grizzly bears;
- 16 (c) perform or contract for the performance of periodic program audits and reviews of program
17 expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction
18 grants and reimbursement payments;
- 19 (d) adjudicate appeals of claims;
- 20 (e) investigate alternative or enhanced funding sources, including possible agreements with public
21 entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in
22 place;
- 23 (f) meet as necessary to conduct business; and
- 24 (g) report annually to the governor, the legislature, members of the Montana congressional delegation,
25 the board of livestock, the fish, wildlife, and parks commission, and the public regarding results of the programs
26 established in 2-15-3111 through 2-15-3113.
- 27 (4) The livestock loss board may sell or auction any wolf carcasses or parts of wolf carcasses received
28 pursuant to 87-1-217. The proceeds, minus the costs of the sale including the preparation of the carcass or part
29 of the carcass for sale, must be deposited into the livestock loss reduction and mitigation special revenue account
30 established in 81-1-110(2)(a) and used for the purposes of 2-15-3111 through 2-15-3114."

1

2 **Section 6.** Section 15-1-122, MCA, is amended to read:

3 **"15-1-122. Fund transfers.** (1) There is transferred from the state general fund to the adoption services
4 account, provided for in 42-2-105, a base amount of \$59,209, and the amount of the transfer must be increased
5 by 10% in each succeeding fiscal year.

6 (2) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or
7 recipients indicated the following amounts:

8 (a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48%
9 of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the
10 allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned
11 vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as
12 provided in 75-10-532.

13 (b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor
14 vehicle revenue deposited in the state general fund in each fiscal year;

15 (c) to the department of fish, wildlife, and parks:

16 (i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable
17 percentage to be:

18 (A) used to:

19 (I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

20 (II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

21 (III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

22 (IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle
23 recreational use, 16.7% in each fiscal year; and

24 (B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in
25 each fiscal year;

26 (ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50%
27 of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618,
28 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount
29 designated for use in the development, maintenance, and operation of snowmobile facilities; and

30 (iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be

1 deposited in the motorboat account to be used as provided in 23-2-533;

2 (d) 0.64% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with
3 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be
4 deposited in the veterans' services account provided for in 10-2-112(1);

5 (e) 0.30% of the motor vehicle revenue deposited in the state general fund in each fiscal year for deposit
6 in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation
7 services account provided for in 7-14-112; and

8 (f) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue
9 deposited in the state general fund in each fiscal year.

10 (3) The amount of \$200,000 is transferred from the state general fund to the livestock loss reduction and
11 mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

12 (4) The amount of \$400,000 is transferred from the state general fund to the livestock loss reduction
13 restricted state special revenue account provided for in [section 1] in each fiscal year.

14 ~~(4)~~(5) For the purposes of this section, "motor vehicle revenue deposited in the state general fund"
15 means revenue received from:

16 (a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

17 (b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered
18 pursuant to 61-3-321 and 61-3-562;

19 (c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

20 (d) all money collected pursuant to 15-1-504(3).

21 ~~(5)~~(6) The amounts transferred from the general fund to the designated recipient must be appropriated
22 as state special revenue in the general appropriations act for the designated purposes."
23

24 **Section 7.** Section 17-7-502, MCA, is amended to read:

25 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
26 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
27 need for a biennial legislative appropriation or budget amendment.

28 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
29 of the following provisions:

30 (a) The law containing the statutory authority must be listed in subsection (3).

1 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
2 appropriation is made as provided in this section.

3 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
4 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
5 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
6 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
7 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
8 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306;
9 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
10 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
11 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
12 80-11-518; 81-1-112; [section 1]; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-230; 87-1-603;
13 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

14 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
15 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
16 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
17 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
18 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
19 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
20 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
21 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch.
22 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and
23 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.
24 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the
25 supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621
26 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30,
27 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec.
28 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011,
29 the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of
30 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates

1 June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates
2 June 30, 2017.)"

3

4 **Section 8.** Section 81-1-110, MCA, is amended to read:

5 **"81-1-110. Livestock loss reduction and mitigation accounts.** (1) There are livestock loss reduction
6 and mitigation special revenue accounts administered by the department within the state special revenue fund
7 and the federal special revenue fund established in 17-2-102.

8 (2) (a) All state proceeds allocated or budgeted for the purposes of 2-15-3110 through 2-15-3114,
9 81-1-110, and 81-1-111, except those transferred to the account provided for in 81-1-112 or [section 1] or
10 appropriated to the department of livestock, must be deposited in the state special revenue account provided for
11 in subsection (1) of this section.

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

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

18 (3) The livestock loss board may spend funds in the accounts only to carry out the provisions of
19 2-15-3111 through 2-15-3113."

20

21 **Section 9.** Section 81-1-112, MCA, is amended to read:

22 **"81-1-112. Livestock loss ~~reduction and mitigation restricted~~ account.** (1) There is an account in
23 the state special revenue fund established by 17-2-102 to be known as the livestock loss ~~reduction and~~ mitigation
24 restricted special revenue account. The account is administered by the department.

25 (2) ~~Money is~~ Each fiscal year the amount provided in 15-1-122(3) is transferred to the account from the
26 state general fund ~~pursuant to 15-1-122~~ and is restricted to the purpose of making payments to livestock
27 producers for confirmed and probable livestock losses pursuant to 2-15-3112(2). Money in the account may not
28 be expended for administrative expenses.

29 (3) The livestock loss ~~reduction and~~ mitigation restricted special revenue account is statutorily
30 appropriated, as provided in 17-7-502, to the department for the purpose of making payments to livestock

1 producers as provided in subsection (2) of this section. (Subsection (3) terminates June 30, 2017--sec. 13, Ch.
2 339, L. 2011.)"

3
4 NEW SECTION. Section 10. Codification instruction. [Section 1] is intended to be codified as an
5 integral part of Title 81, chapter 1, part 1, and the provisions of Title 81, chapter 1, part 1, apply to [section 1].

6
7 NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2013.

8
9 NEW SECTION. Section 12. Termination. [This act] terminates June 30, 2019.

10 - END -