

## 1 HOUSE BILL NO. 323

2 INTRODUCED BY M. CUFFE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ADDING LIVESTOCK LOSSES DUE TO GRIZZLY BEAR  
5 PREDATION TO THE LIVESTOCK LOSS PROGRAMS; AND AMENDING SECTIONS 2-15-3110, 2-15-3111,  
6 2-15-3112, 2-15-3113, AND 81-1-110, MCA."

7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9

10 **Section 1.** Section 2-15-3110, MCA, is amended to read:

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

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

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

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

20 (c) one member of the general public.

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

22 (a) the raising of livestock in Montana;

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

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

26 (d) wildlife conservation;

27 (e) administration; and

28 (f) fundraising.

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

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

3 (6) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and  
4 81-1-110 through 81-1-112."

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

7 **"2-15-3111. Livestock loss reduction program.** The livestock loss board shall establish and administer  
8 a program to cost-share with individuals or incorporated entities in implementing measures to prevent wolf and  
9 grizzly bear predation on livestock, including:

10 (1) eligibility requirements for program participation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26           (a) "Confirmed" means reasonable physical evidence that livestock was actually attacked or killed by  
27 a wolf or grizzly bear, including but not limited to the presence of bite marks indicative of the spacing of canine  
28 tooth punctures of wolves or grizzly bears and associated subcutaneous hemorrhaging and tissue damage  
29 indicating that the attack occurred while the animal was alive, feeding patterns on the carcass, fresh tracks, scat,  
30 hair rubbed off on fences or brush, eyewitness accounts, or other physical evidence that allows a reasonable

1 inference of wolf or grizzly bear predation on an animal that has been largely consumed.

2 (b) "Fair market value" means:

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

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

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

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

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

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

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

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

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

26

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

28 **"2-15-3113. Additional powers and duties of livestock loss board.** (1) The livestock loss board shall:

29 (a) process claims;

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

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

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

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

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

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

10 (2) The livestock loss board may enter into an agreement with any Montana tribe, if the tribe has adopted  
11 a wolf or grizzly bear management plan for reservation lands that is consistent with the state wolf or grizzly bear  
12 management plan, to provide that tribal lands within reservation boundaries are eligible for mitigation grants  
13 pursuant to 2-15-3111 and that livestock losses on tribal lands within reservation boundaries are eligible for  
14 reimbursement payments pursuant to 2-15-3112.

15 (3) The livestock loss board shall:

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

19 (b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses  
20 caused by wolves and grizzly bears;

21 (c) perform or contract for the performance of periodic program audits and reviews of program  
22 expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction  
23 grants and reimbursement payments;

24 (d) adjudicate appeals of claims;

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

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

29 (g) report annually to the governor, the legislature, members of the Montana congressional delegation,  
30 the board of livestock, the fish, wildlife, and parks commission, and the public regarding results of the programs

1 established in 2-15-3111 through 2-15-3113.

2 (4) The livestock loss board may sell or auction any wolf carcasses or parts of wolf carcasses received  
3 pursuant to 87-1-217. The proceeds, minus the costs of the sale including the preparation of the carcass or part  
4 of the carcass for sale, must be deposited into the livestock loss reduction and mitigation special revenue account  
5 established in 81-1-110(2)(a) and used for the purposes of 2-15-3111 through 2-15-3114."

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

8 **"81-1-110. Livestock loss reduction and mitigation accounts.** (1) There are livestock loss reduction  
9 and mitigation special revenue accounts administered by the department within the state special revenue fund  
10 and the federal special revenue fund established in 17-2-102.

11 (2) (a) All state proceeds allocated or budgeted for the purposes of 2-15-3110 through 2-15-3114,  
12 81-1-110, and 81-1-111, except those transferred to the account provided for in 81-1-112 or appropriated to the  
13 department of livestock, must be deposited in the state special revenue account provided for in subsection (1)  
14 of this section.

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

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

21 (3) The livestock loss board may spend funds in the accounts only to carry out the provisions of  
22 2-15-3111 through 2-15-3113."

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24 NEW SECTION. **Section 6. Saving clause.** [This act] does not affect rights and duties that matured,  
25 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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