

HOUSE BILL NO. 286

INTRODUCED BY R. SHAW, D. ANKNEY, R. COOK, R. FITZGERALD, K. FLYNN, W. GALT, F. GARNER, B. HARRIS, J. KEANE, C. KNUDSEN, M. LANG, D. LOGE, T. MANZELLA, D. MORTENSEN, G. PIERSON, A. REDFIELD, T. RICHMOND, W. SALES, D. SALOMON, G. VANCE, S. VINTON, J. WELBORN, T. WELCH, K. WHITE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE LIVESTOCK LOSS BOARD TO MINIMIZE LIVESTOCK LOSSES FROM MOUNTAIN LION PREDATION AND TO REIMBURSE LIVESTOCK PRODUCERS FOR LIVESTOCK LOSSES FROM MOUNTAIN LION PREDATION; AND AMENDING SECTIONS 2-15-3110, 2-15-3111, 2-15-3112, 2-15-3113, 81-1-110, AND 87-1-217, MCA."

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

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

"2-15-3110. (Temporary) Livestock loss board -- purpose, membership, and qualifications. (1)

There is a livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf conservation and management plan, the Montana mountain lion management plan, and the Montana grizzly bear management plan and established in 2-15-3111 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves, mountain lions, and grizzly bears to livestock producers and to reimburse livestock producers for livestock losses from wolf, mountain lion, and grizzly bear predation.

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

(a) three members who are actively involved in the livestock industry and who have knowledge and experience with regard to wildlife impacts or management; and

(b) two members of the general public who are or have been actively involved in wildlife conservation or wildlife management and who have knowledge and experience with regard to livestock production or management.

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

(4) The board is allocated to the department of livestock for administrative purposes only as provided



1 in 2-15-121.

2 (5) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and
3 81-1-110 through 81-1-113.

4 (6) THE BOARD SHALL PRIORITIZE GRANTS FOR PREVENTION OF WOLF AND GRIZZLY BEAR PREDATION OVER
5 THOSE FOR MOUNTAIN LION PREDATION. (Terminates June 30, 2021--sec. 8, Ch. 349, L. 2015.)

6 **2-15-3110. (Effective July 1, 2021) Livestock loss board -- purpose, membership, and**
7 **qualifications.** (1) There is a livestock loss board. The purpose of the board is to administer the programs called
8 for in the Montana gray wolf conservation and management plan, the Montana mountain lion management plan,
9 and the Montana grizzly bear management plan and established in 2-15-3111 through 2-15-3113, with funds
10 provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves, mountain
11 lions, and grizzly bears to livestock producers and to reimburse livestock producers for livestock losses from wolf,
12 mountain lion, and grizzly bear predation.

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

14 (a) three members who are actively involved in the livestock industry and who have knowledge and
15 experience with regard to wildlife impacts or management; and

16 (b) two members of the general public who are or have been actively involved in wildlife conservation
17 or wildlife management and who have knowledge and experience with regard to livestock production or
18 management.

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

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

23 (5) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and
24 81-1-110 through 81-1-112.

25 (6) THE BOARD SHALL PRIORITIZE GRANTS FOR PREVENTION OF WOLF AND GRIZZLY BEAR PREDATION OVER
26 THOSE FOR MOUNTAIN LION PREDATION."

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

29 **"2-15-3111. Livestock loss reduction program.** The livestock loss board shall establish and administer
30 a program to cost-share with individuals or incorporated entities in implementing measures to prevent wolf,

1 mountain lion, and grizzly bear predation on livestock, including:

2 (1) eligibility requirements for program participation;

3 (2) application procedures for program participation and procedures for awarding grants for wolf,
4 mountain lion, and grizzly bear predation prevention measures, subject to grant priorities and the availability of
5 funds;

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

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

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

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

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

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

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

25 **"2-15-3112. Livestock loss mitigation program -- definitions.** The livestock loss board shall establish
26 and administer a program to reimburse livestock producers for livestock losses caused by wolves, mountain lions,
27 and grizzly bears, subject to the following provisions:

28 (1) The board shall establish eligibility requirements for reimbursement, which must provide that all
29 Montana livestock producers are eligible for coverage for losses by wolves, mountain lions, and grizzly bears to
30 cattle, swine, horses, mules, sheep, goats, llamas, and livestock guard animals on state, federal, and private land

1 and on tribal land that is eligible through agreement pursuant to 2-15-3113(2).

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

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

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

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

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

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

26 (b) "Fair market value" means:

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

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

30 (iii) for registered sheep, the average price paid to the specific breeder for sheep of similar age and sex

1 during the past year at public or private sales for that registered breed;

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

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

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

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

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

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

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

22 **"2-15-3113. Additional powers and duties of livestock loss board.** (1) The livestock loss board shall:

23 (a) process claims;

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

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

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

30 (e) provide information to the board of livestock regarding appealed claims and implement any decision

1 by the board;

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

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

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

9 (3) The livestock loss board shall:

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

13 (b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses
14 caused by wolves, mountain lions, and grizzly bears;

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

18 (d) adjudicate appeals of claims;

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

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

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

26 (4) The livestock loss board may sell or auction any ~~wolf~~ carcasses or parts of ~~wolf~~ carcasses from
27 wolves; OR mountain lions; or grizzly bears received pursuant to 87-1-217. The proceeds, minus the costs of the
28 sale including the preparation of the carcass or part of the carcass for sale, must be deposited into the livestock
29 loss reduction and mitigation special revenue account established in 81-1-110 and used for the purposes of
30 2-15-3111 through 2-15-3114."

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

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

(2) (a) All state proceeds allocated or budgeted for the purposes of 2-15-3110 through 2-15-3114, 81-1-110, and 81-1-111, except those transferred to the account provided for in 81-1-112 [or 81-1-113] or appropriated to the department of livestock, must be deposited in the state special revenue account provided for in subsection (1) of this section.

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

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

(3) The livestock loss board may spend funds in the accounts only to carry out the provisions of 2-15-3111 through 2-15-3113. (Bracketed language in subsection (2)(a) terminates June 30, 2021--sec. 8, Ch. 349, L. 2015.)"

Section 6. Section 87-1-217, MCA, is amended to read:

"87-1-217. Policy for management of large predators -- legislative intent. (1) In managing large predators, the primary goals of the department, in the order of listed priority, are to:

- (a) protect humans, livestock, and pets;
 - (b) preserve and enhance the safety of the public during outdoor recreational and livelihood activities;
- and
- (c) preserve citizens' opportunities to hunt large game species.

(2) With regard to large predators, it is the intent of the legislature that the specific provisions of this section concerning the management of large predators will control the general supervisory authority of the department regarding the management of all wildlife.

(3) For the management of wolves in accordance with the priorities established in subsection (1), the

1 department may use lethal action to take problem wolves that attack livestock if the state objective for breeding
2 pairs has been met. For the purposes of this subsection, "problem wolves" means any individual wolf or pack of
3 wolves with a history of livestock predation.

4 (4) The department shall work with the livestock loss board and the United States department of
5 agriculture wildlife services to establish the conditions under which ~~wolf~~ carcasses or parts of ~~wolf~~ carcasses from
6 wolves, OR mountain lions, or grizzly bears are retrieved during ~~wolf~~ management activities and when those
7 carcasses or parts of carcasses are made available to the livestock loss board for sale or auction pursuant to
8 2-15-3113.

9 (5) The department shall ensure that county commissioners and tribal governments in areas that have
10 identifiable populations of large predators have the opportunity for consultation and coordination with state and
11 federal agencies prior to state and federal policy decisions involving large predators and large game species.

12 (6) As used in this section:

13 (a) "consultation" means to actively provide information to a county or tribal government regarding
14 proposed policy decisions on matters that may have a harmful effect on agricultural production or livestock
15 operations or that may pose a risk to human health or safety in that county or on those tribal lands and to seek
16 information and advice from counties or tribal governments on these matters;

17 (b) "large game species" means deer, elk, mountain sheep, moose, antelope, and mountain goats; and

18 (c) "large predators" means bears, mountain lions, and wolves."

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- END -