

HOUSE BILL NO. 558

INTRODUCED BY T. WINTER

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A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE NUMBER OF BOARDS AND ADVISORY COUNCILS; ELIMINATING THE ECONOMIC DEVELOPMENT ADVISORY COUNCIL, THE LIVESTOCK LOSS BOARD, AND THE BOARD OF MILK CONTROL; AMENDING SECTIONS 2-15-3111, 2-15-3112, 2-15-3113, 81-1-101, 81-1-110, 81-1-113, 81-23-101, 87-1-217, AND 90-1-116, MCA; AND REPEALING SECTIONS 2-15-1820, 2-15-3105, AND 2-15-3110, MCA."

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

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

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

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

1 (c) proactive preventive measures and other preventive measures as information on new or different
2 successful prevention measures becomes available; and

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

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

7 **"2-15-3112. Livestock loss mitigation program -- definitions.** The ~~livestock loss~~ board of livestock
8 shall establish and administer a program to reimburse livestock producers for livestock losses caused by wolves,
9 mountain lions, and grizzly bears, subject to the following provisions:

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

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

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

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

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

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

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

8 (b) "Fair market value" means:

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

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

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

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

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

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

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

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

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

1 species may have been in the area when the depredation occurred."

2

3 **Section 3.** Section 2-15-3113, MCA, is amended to read:

4 **"2-15-3113. Additional powers and duties of board of livestock loss board.** (1) The ~~livestock loss~~
5 board of livestock shall:

6 (a) process claims;

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

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

10 (d) ~~submit~~ prepare monthly and annual reports ~~to the board of livestock~~ summarizing claims and
11 expenditures and the results of action taken on claims and maintain files of all claims received, including
12 supporting documentation;

13 (e) ~~provide~~ maintain information ~~to the board of livestock~~ regarding appealed claims ~~and implement any~~
14 ~~decision by the board~~;

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

16 (g) ~~provide~~ maintain proper documentation of staff time and expenditures.

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

22 (3) The ~~livestock loss~~ board shall:

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

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

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

- 1 (d) adjudicate appeals of claims;
- 2 (e) investigate alternative or enhanced funding sources, including possible agreements with public
3 entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in
4 place;
- 5 (f) meet as necessary to conduct business; and
- 6 (g) report annually to the governor, the legislature, members of the Montana congressional delegation,
7 ~~the board of livestock~~, the fish and wildlife commission, and the public regarding results of the programs
8 established in 2-15-3111 through 2-15-3113.
- 9 (4) The ~~livestock loss~~ board may sell or auction any carcasses or parts of carcasses from wolves or
10 mountain lions received pursuant to 87-1-217. The proceeds, minus the costs of the sale including the preparation
11 of the carcass or part of the carcass for sale, must be deposited into the livestock loss reduction and mitigation
12 special revenue account established in 81-1-110 and used for the purposes of 2-15-3111 through 2-15-3114."
13

14 **Section 4.** Section 81-1-101, MCA, is amended to read:

15 **"81-1-101. Definitions.** Unless the context requires otherwise, in Title 81, the following definitions apply:

16 (1) (a) "Bison" means domestic bison or feral bison.

17 (b) The term does not include:

18 (i) wild buffalo or wild bison; or

19 (ii) for the purposes of chapter 9, buffalo.

20 (2) "Board" means the board of livestock provided for in 2-15-3102, ~~except as provided in Title 81,~~
21 ~~chapter 23.~~

22 (3) "Department" means the department of livestock provided for in Title 2, chapter 15, part 31.

23 (4) "Domestic bison" means a bison owned by a person.

24 (5) "Feral bison" means a domestic bison or progeny of a domestic bison that has escaped or been
25 released from captivity and is running at large and unrestrained on public or private land.

26 (6) "Wild buffalo" or "wild bison" means a bison that has not been reduced to captivity and is not owned
27 by a person."
28

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

30 **"81-1-110. Livestock loss reduction and mitigation accounts.** (1) There are livestock loss reduction

1 and mitigation special revenue accounts administered by the department within the state special revenue fund
2 and the federal special revenue fund established in 17-2-102.

3 (2) (a) All state proceeds allocated or budgeted for the purposes of ~~2-15-3110~~ 2-15-3111 through
4 2-15-3114, 81-1-110, and 81-1-111, except those transferred to the account provided for in 81-1-112 [or
5 81-1-113] or appropriated to the department of livestock, must be deposited in the state special revenue account
6 provided for in subsection (1) of this section.

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

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

13 (3) The ~~livestock loss~~ board may spend funds in the accounts only to carry out the provisions of
14 2-15-3111 through 2-15-3113. (Bracketed language in subsection (2)(a) terminates June 30, 2023--sec. 6, Ch.
15 284, L. 2017.)"

16

17 **Section 6.** Section 81-1-113, MCA, is amended to read:

18 **"81-1-113. (Temporary) Livestock loss reduction restricted account.** (1) There is an account in the
19 state special revenue fund established by 17-2-102 to be known as the livestock loss reduction restricted special
20 revenue account. The account is administered by the department.

21 (2) Except as provided in subsection (6), the money transferred to the account is restricted to the
22 purposes of reducing predation on livestock by wolves and grizzly bears and reducing expenses incurred by
23 livestock owners, including but not limited to veterinary bills, caused by wolves and grizzly bears.

24 (3) Money received by the state in the form of gifts, grants, reimbursements, or allocations from any
25 source intended to be used for either or both of the purposes of subsection (2) must be deposited in the account
26 provided for in subsection (1).

27 (4) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for
28 carrying out the purposes of this section.

29 (5) Except as provided in subsection (6), to reduce predation of livestock, the ~~livestock loss~~ board:

30 (a) shall use at least half of the money transferred into the account pursuant to subsection (2) on

1 nonlethal, preventative measures; and

2 (b) may use half of the money transferred into the account pursuant to subsection (2) to contract with
3 the United States department of agriculture wildlife services.

4 (6) Up to 10% of the money in the account may be used for administrative expenses. (Terminates June
5 30, 2023--secs. 6, 8, Ch. 284, L. 2017.)"

6

7 **Section 7.** Section 81-23-101, MCA, is amended to read:

8 **"81-23-101. Definitions.** (1) Unless the context requires otherwise, in this chapter, the following
9 definitions apply:

10 ~~(a)~~ "Board" means the board of milk control provided for in ~~2-15-3105~~.

11 ~~(b)~~(a) (i) "Class" refers to the classes of utilization of milk that the board defines by rule.

12 (ii) In adopting rules under this subsection ~~(1)(b)~~ (1)(a), the board shall use the current definitions of
13 classes of utilization of milk that are found in 7 CFR, part 1000.40, except that the board may combine any of the
14 classes of milk provided for in the federal definitions into a single class.

15 ~~(e)~~(b) "Consumer" means a person or an agency, other than a dealer, who purchases milk for
16 consumption or use.

17 ~~(d)~~(c) "Dealer" means a producer, distributor, producer-distributor, jobber, or independent contractor.

18 ~~(e)~~(d) (i) "Distributor" means a person purchasing milk from any source, either in bulk or in packages,
19 and distributing it for consumption in this state. The term includes what are commonly known as jobbers and
20 independent contractors.

21 (ii) The term does not include a person purchasing milk from a dealer licensed under this chapter for
22 resale over the counter at retail or for consumption on the premises.

23 ~~(f)~~(e) "Licensee" means a person who holds a license from the board.

24 ~~(g)~~(f) "Market" means an area of the state designated by the board as a natural marketing area.

25 ~~(h)~~(g) "Milk" means the lacteal secretion of a dairy animal or animals, including those secretions when
26 raw and when cooled, pasteurized, standardized, homogenized, recombined, concentrated fresh, or otherwise
27 processed and all of which are designated as grade A by a constituted health authority and including those
28 secretions that are in any manner rendered sterile or aseptic, notwithstanding whether they are regulated by any
29 health authority of this or any other state or nation.

30 ~~(i)~~(h) "Person" means an individual, firm, corporation, or cooperative association or the dairy operated

1 by the department of corrections at the Montana state prison.

2 ~~(j)~~(i) "Producer" means a person who produces milk for consumption in this state and sells it to a
3 distributor.

4 ~~(k)~~(j) "Producer prices" means those prices at which milk owned by a producer is sold in bulk to a
5 distributor.

6 ~~(h)~~(k) "Producer-distributor" means a person both producing and distributing milk for consumption in this
7 state.

8 ~~(m)~~(l) "Retailer" means a person selling milk in bulk or in packages over the counter at retail or for
9 consumption on the premises and includes but is not limited to retail stores of all types, restaurants,
10 boardinghouses, fraternities, sororities, confectioneries, public and private schools, including colleges and
11 universities, and both public and private institutions and instrumentalities of all types and description.

12 (2) The board may assign new milk products not provided for under 7 CFR, part 1000.40, to the class
13 that the board considers proper."

14

15 **Section 8.** Section 87-1-217, MCA, is amended to read:

16 **"87-1-217. Policy for management of large predators -- legislative intent.** (1) In managing large
17 predators, the primary goals of the department, in the order of listed priority, are to:

18 (a) protect humans, livestock, and pets;

19 (b) preserve and enhance the safety of the public during outdoor recreational and livelihood activities;

20 and

21 (c) preserve citizens' opportunities to hunt large game species.

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

25 (3) For the management of wolves in accordance with the priorities established in subsection (1), the
26 department may use lethal action to take problem wolves that attack livestock if the state objective for breeding
27 pairs has been met. For the purposes of this subsection, "problem wolves" means any individual wolf or pack of
28 wolves with a history of livestock predation.

29 (4) The department shall work with the ~~livestock loss~~ board of livestock provided for in 2-15-3102 and
30 the United States department of agriculture wildlife services to establish the conditions under which carcasses

1 or parts of carcasses from wolves or mountain lions are retrieved during management activities and when those
 2 carcasses or parts of carcasses are made available to the ~~livestock loss~~ board of livestock for sale or auction
 3 pursuant to 2-15-3113.

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

7 (6) As used in this section:

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

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

13 (c) "large predators" means bears, mountain lions, and wolves."
 14

15 **Section 9.** Section 90-1-116, MCA, is amended to read:

16 **"90-1-116. State matching funds program for economic development -- distribution of proceeds**
 17 **-- criteria for grants -- local economic development matching funds.** (1) As used in this section, the following
 18 definitions apply:

19 (a) "Certified regional development corporation" means a private, nonprofit corporation that has been
 20 designated by the department through a competitive process to manage and administer funds and programs for
 21 the department on a regional basis.

22 ~~(b) "Council" means the economic development advisory council established in 2-15-1820.~~

23 ~~(e)(b)~~ (b) "Department" means the department of commerce provided for in 2-15-1801.

24 ~~(d)(c)~~ (c) "Treasure community" means a community that meets and maintains requirements for certification
 25 established by the department and administered by the certified regional development corporation.

26 (2) The department shall create a program to provide state funds to match local economic development
 27 funds and to fund up to 12 certified regional development corporations. The provision of state matching funds is
 28 contingent upon specific appropriations to the department for that purpose.

29 (3) An assistance grant to a certified regional development corporation will be made based on rules
 30 adopted by the department for the state matching funds program. The rules for distribution of funds must include

1 consideration of:

2 (a) the size of the geographic area represented by the certified regional development corporation;

3 (b) the number of communities served by the certified regional development corporation;

4 (c) the population served by the certified regional development corporation; and

5 (d) the services offered by the certified regional development corporation.

6 (4) To be eligible to receive a grant, a certified regional development corporation:

7 (a) must be designated as the certified regional development corporation by the department;

8 (b) shall maintain department requirements for certification;

9 (c) shall match each \$1 of the grant with \$1 raised from public or private sources;

10 (d) shall administer the treasure community designation and reporting process for the communities and
11 counties in the region;

12 (e) shall encourage and organize full participation in regional economic development activities, meetings,
13 projects, and planning by the treasure communities in the region; and

14 (f) shall deliver services and resources to the citizens, businesses, and treasure communities throughout
15 the region.

16 (5) Grants under this section must be used to conduct economic development programs consistent with
17 strategic plans that are adopted by the certified regional development corporations and the treasure communities
18 in the region and that are filed with the department."

19
20 NEW SECTION. **Section 10. Repealer.** The following sections of the Montana Code Annotated are
21 repealed:

22 2-15-1820. Economic development advisory council.

23 2-15-3105. Board of milk control -- membership -- allocation -- quasi-judicial.

24 2-15-3110. Livestock loss board -- purpose, membership, and qualifications.

25 - END -