

## 1 SENATE BILL NO. 210

2 INTRODUCED BY G. VUCKOVICH

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE EXPANSION OF THE LIVESTOCK LOSS  
5 REDUCTION PROGRAM TO INCLUDE MOUNTAIN LION PREDATIONS OF LIVESTOCK; PROVIDING FOR  
6 AN INCREASED TRANSFER OF FUNDS TO THE LIVESTOCK LOSS REDUCTION AND MITIGATION  
7 RESTRICTED STATE SPECIAL REVENUE ACCOUNT; PROVIDING RULEMAKING AUTHORITY; AMENDING  
8 SECTIONS 2-15-3110, 2-15-3111, 2-15-3112, 2-15-3113, 15-1-122, AND 81-1-110, MCA; AND PROVIDING AN  
9 EFFECTIVE DATE."

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

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

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

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

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

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

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

30 (5) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and

1 81-1-110 through 81-1-112."

2

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

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

7 (1) eligibility requirements for program participation;

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

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

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

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

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

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

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

28

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

30 **"2-15-3112. Livestock loss mitigation program -- definitions.** The livestock loss board shall establish

1 and administer a program to reimburse livestock producers for livestock losses caused by wolves, ~~and~~ grizzly  
2 bears, and mountain lions, subject to the following provisions:

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

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

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

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

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

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

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

1 (b) "Fair market value" means:

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

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

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

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

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

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

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

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

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

25

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

27 **"2-15-3113. Additional powers and duties of livestock loss board.** (1) The livestock loss board shall:

28 (a) process claims;

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

30 (c) provide payments authorized by the board for confirmed and probable livestock losses, along with

1 a written explanation of payment;

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

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

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

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

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

14 (3) The livestock loss board shall:

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

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

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

23 (d) adjudicate appeals of claims;

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

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

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

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

5

6 **Section 5.** Section 15-1-122, MCA, is amended to read:

7 **"15-1-122. Fund transfers.** (1) There is transferred from the state general fund to the adoption services  
8 account, provided for in 42-2-105, a base amount of \$59,209, and the amount of the transfer must be increased  
9 by 10% in each succeeding fiscal year.

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

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

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

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

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

22 (A) used to:

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

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

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

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

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

30 (ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50%

1 of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617,  
 2 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  
 3 designated for use in the development, maintenance, and operation of snowmobile facilities; and

4 (iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be  
 5 deposited in the motorboat account to be used as provided in 23-2-533;

6 (d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with  
 7 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be  
 8 deposited in the veterans' services account provided for in 10-2-112(1);

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

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

14 (3) The amount of ~~\$200,000~~ \$250,000 is transferred from the state general fund to the livestock loss  
 15 reduction and mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

16 (4) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means  
 17 revenue received from:

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

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

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

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

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

25

26 **Section 6.** Section 81-1-110, MCA, is amended to read:

27 **"81-1-110. Livestock loss reduction and mitigation accounts.** (1) There are livestock loss reduction  
 28 and mitigation special revenue accounts administered by the department within the state special revenue fund  
 29 and the federal special revenue fund established in 17-2-102.

30 (2) (a) All state proceeds allocated or budgeted for the purposes of 2-15-3110 through 2-15-3114,

1 81-1-110, and 81-1-111, except those transferred to the account provided for in 81-1-112 or appropriated to the  
2 department of livestock, must be deposited in the state special revenue account provided for in subsection (1)  
3 of this section.

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

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

10 (3) The livestock loss board may spend funds in the accounts only to carry out the provisions of  
11 2-15-3111 through 2-15-3113."

12

13 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2015.

14

- END -