

SENATE BILL NO. 133

INTRODUCED BY B. GILLESPIE

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ELIGIBILITY REQUIREMENTS FOR LIVESTOCK LOSS MITIGATION PAYMENTS; REQUIRING THE DEPARTMENT OF REVENUE TO CERTIFY PER CAPITA PAYMENTS TO THE LIVESTOCK LOSS BOARD; PROHIBITING LIVESTOCK LOSS MITIGATION PAYMENT WITHOUT PROOF OF PER CAPITA FEE PAYMENT; AND AMENDING SECTION 2-15-3112, MCA."

WHEREAS, the livestock loss mitigation program, predatory animal control through per capita livestock fees, and the county bounty program are the three state programs to help farmers, ranchers, and other livestock owners cope with losses of livestock to wild predators; and

WHEREAS, the livestock loss mitigation program compensates farmers, ranchers, and other livestock owners for losses caused by wolves, mountain lions, and grizzly bears; and

WHEREAS, in 2017, farmers, ranchers, and other livestock owners were reimbursed for the loss of 145 head of cattle, 54 sheep, 15 goats, and 4 swine to wolves, mountain lions, and grizzly bears through the livestock loss mitigation program; and

WHEREAS, per capita fees are assessed on ranchers, farmers, and other livestock owners to fund the department of livestock's predatory animal control program and to protect against coyote, red fox, and other predatory animals; and

WHEREAS, for these programs, the U.S. Department of Agriculture's Wildlife Services plays an integral role, from dispatching predators to confirming predator kills; and

WHEREAS, because the livestock loss mitigation program and predatory animal control through per capita livestock fees are integral programs for Montana farmers, ranchers, and livestock owners, it stands to reason that producers who pay to maintain this system should be the ones who benefit.

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

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

"2-15-3112. Livestock loss mitigation program -- definitions. The livestock loss board shall establish and administer a program to reimburse livestock producers for livestock losses caused by wolves, mountain lions,

1 and grizzly bears, subject to the following provisions:

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

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

8 (b) Before the board may issue a reimbursement for losses to a livestock producer eligible for coverage
9 for losses, the department of revenue shall certify that the livestock producer has paid the previous year's per
10 capita fee PER CAPITA FEES as required by 15-24-921. A LIVESTOCK PRODUCER MAY NOT RECEIVE A REIMBURSEMENT
11 FOR LOSSES IF THE PRODUCER HAS NOT PAID THE PREVIOUS YEAR'S PER CAPITA FEE EXCEPT FOR A TRIBAL MEMBER OR
12 TRIBAL ENTITY PARTICIPATING IN AN AUTHORIZED AGREEMENT PURSUANT TO 2-15-3113, A LIVESTOCK PRODUCER MAY
13 NOT RECEIVE A REIMBURSEMENT FOR LOSSES UNTIL THE PRODUCER HAS PAID ANY DELINQUENT PER CAPITA FEES.

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

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

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

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

29 (a) "Confirmed" means reasonable physical evidence that livestock was actually attacked or killed by
30 a wolf, mountain lion, or grizzly bear, including but not limited to the presence of bite marks indicative of the

1 spacing of tooth punctures of wolves, mountain lions, or grizzly bears and associated subcutaneous
2 hemorrhaging and tissue damage indicating that the attack occurred while the animal was alive, feeding patterns
3 on the carcass, fresh tracks, scat, hair rubbed off on fences or brush, eyewitness accounts, or other physical
4 evidence that allows a reasonable inference of wolf, mountain lion, or grizzly bear predation on an animal that
5 has been largely consumed.

6 (b) "Fair market value" means:

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

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

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

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

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

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

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

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

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

30 - END -