

1 SENATE BILL NO. 26

2 INTRODUCED BY B. GILLESPIE

3 BY REQUEST OF THE LIVESTOCK LOSS BOARD

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING ELIGIBILITY FOR THE LIVESTOCK LOSS
6 MITIGATION PROGRAM AND THE LIVESTOCK LOSS REDUCTION PROGRAM; CLARIFYING THAT
7 LIVESTOCK PRODUCERS ON TRIBAL LANDS ARE ELIGIBLE FOR LIVESTOCK LOSS MITIGATION
8 REIMBURSEMENT; AND AMENDING SECTIONS 2-15-3112 AND 2-15-3113, MCA."
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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12 **Section 1.** Section 2-15-3112, MCA, is amended to read:

13 **"2-15-3112. Livestock loss mitigation program -- definitions.** The livestock loss board shall
14 establish and administer a program to reimburse livestock producers for livestock losses caused by wolves,
15 mountain lions, and grizzly bears, subject to the following provisions:

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

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

22 (b) Before the board may issue a reimbursement for losses to a livestock producer eligible for
23 coverage for losses, the department of revenue shall certify that the livestock producer has paid per capita fees
24 as required by 15-24-921. Except for a tribal member or tribal entity participating in an authorized agreement
25 pursuant to 2-15-3113, a livestock producer may not receive a reimbursement for losses until the producer has
26 paid any delinquent per capita fees.

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

28 (4) A claim process must be established to be used when a livestock producer suffers a livestock loss

1 for which wolves, mountain lions, or grizzly bears may be responsible. The claim process must set out a clear
2 and concise method for documenting and processing claims for reimbursement for livestock losses.

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

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

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

21 (b) "Fair market value" means:

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

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

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

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

- 1 (v) for commercial calves, the average market weaning value;
- 2 (vi) for registered cattle, the average price paid to the owner for cattle of similar age and sex during the
- 3 past year at public or private sales for that registered breed;
- 4 (vii) for other registered livestock, the average price paid to the producer at public or private sales for
- 5 animals of similar age and sex. A producer may provide documentation that a registered animal has a fair
- 6 market value in excess of the average price, in which case the board shall seek additional verification of the
- 7 value of the animal from independent sources. If the board determines that the value of that animal is greater
- 8 than the average price, then the increased value must be accepted as the fair market value for that animal.
- 9 (viii) for other livestock, the average price paid at the most recent public auction for the type of animal
- 10 lost or the replacement price as determined by the board.
- 11 (c) "Probable" means the presence of some evidence to suggest possible predation but a lack of
- 12 sufficient evidence to clearly confirm predation by a particular species. A kill may be classified as probable
- 13 depending on factors including but not limited to recent confirmed predation by the suspected depredate
- 14 species in the same or a nearby area, recent observation of the livestock by the owner or the owner's
- 15 employees, and telemetry monitoring data, sightings, howling, or fresh tracks suggesting that the suspected
- 16 depredate species may have been in the area when the depredation occurred."

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

19 **"2-15-3113. Additional powers and duties of livestock loss board.** (1) The livestock loss board

20 shall:

- 21 (a) process claims;
- 22 (b) seek information necessary to ensure that claim documentation is complete;
- 23 (c) provide payments authorized by the board for confirmed and probable livestock losses, along with
- 24 a written explanation of payment;
- 25 (d) submit monthly and annual reports to the board of livestock summarizing claims and expenditures
- 26 and the results of action taken on claims and maintain files of all claims received, including supporting
- 27 documentation;
- 28 (e) provide information to the board of livestock regarding appealed claims and implement any

1 decision 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
5 adopted a wolf, mountain lion, or grizzly bear management plan for reservation lands that is consistent with the
6 state wolf, mountain lion, or grizzly bear management plan, to provide that tribal lands within reservation
7 boundaries are eligible for ~~mitigation-livestock loss reduction program~~ grants pursuant to 2-15-3111 and that
8 ~~livestock losses on tribal lands within reservation boundaries are eligible for reimbursement payments pursuant~~
9 ~~to 2-15-3112.~~

10 (3) The livestock loss board shall:

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

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

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

19 (d) adjudicate appeals of claims;

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

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

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

27 (4) The livestock loss board may sell or auction any carcasses or parts of carcasses from wolves or
28 mountain lions received pursuant to 87-1-217. The proceeds, minus the costs of the sale including the

1 preparation of the carcass or part of the carcass for sale, must be deposited into the livestock loss reduction
2 and mitigation special revenue account established in 81-1-110 and used for the purposes of 2-15-3111
3 through 2-15-3114."

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5 NEW SECTION. **Section 3. Notification to tribal governments.** The secretary of state shall send a
6 copy of [this act] to each federally recognized tribal government in Montana.

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