

# Montana State Legislature

## **2013 Session**

### **ADDITIONAL DOCUMENTS MAY INCLUDE THE FOLLOWING:**

- **Business Report**
- **Roll Call - Attendance**
- **Standing Committee Reports**
- **Tabled Bills**
- **Fiscal Reports etc.**
- **Roll Call Votes**
- **Informational Items**
- **Witness Statements**
- **Any Documents; such as;**
  - \* **Petitions if any.**
  - \* **Any and all material handed end after the meeting ends.**

**The original is on file at the  
Montana Historical Society  
and may be viewed there.**

**Montana Historical Society  
Archives  
225 N. Roberts  
Helena MT 59620-1201  
2013 Legislative Scanner Susie Hamilton**

**BUSINESS REPORT**  
**MONTANA SENATE**  
**63rd LEGISLATURE - REGULAR SESSION**  
**SENATE FISH AND GAME COMMITTEE**

**Date:** Tuesday, March 19, 2013  
**Place:** Capitol

**Time:** 3:00 PM  
**Room:** 303

**BILLS and RESOLUTIONS HEARD:**

HB 328 - Allowing hunter notification of wild buffalo/bison location - Rep. Ted Washburn  
HB 396 - Revise laws regarding translocation of wild buffalo/bison - Rep. Mike Lang

**EXECUTIVE ACTION TAKEN:**

SB 178 - DP  
HB 328 - Be Concurred In  
SB 381 - Tabled

**Comments:**



---

SEN. John Brenden, Chair

MONTANA STATE SENATE  
Roll Call  
FISH AND GAME COMMITTEE

DATE: 3-19-13

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
SENATOR JOHN BRENDEN, CHAIRMAN	✓	
SENATOR RICK RIPLEY, VICE CHAIRMAN	✓	
SENATOR DEBBY BARRETT	✓	
SENATOR TOM FACEY	✓	
SENATOR JENNIFER FIELDER	✓	
SENATOR BRAD HAMLETT	✓	
SENATOR LARRY JENT	✓	
SENATOR JIM PETERSON	✓	
SENATOR FRED THOMAS		EXC.
SENATOR KENDALL VAN DYK		EXC.



SENATE STANDING COMMITTEE REPORT

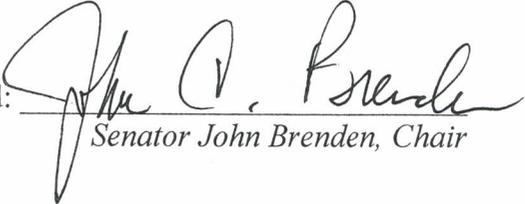
March 19, 2013

Page 1 of 1

Mr. President:

We, your committee on **Fish and Game** recommend that **Senate Bill 178** (first reading copy -- white) **do pass**.

Signed: \_\_\_\_\_

  
Senator John Brenden, Chair

- END -

**Committee Vote:**

**Yes 7, No 3**

Fiscal Note Required

SB0178001SC.swr



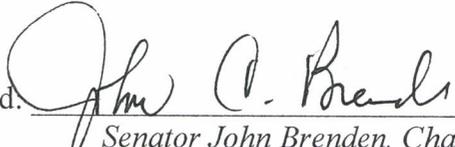
SENATE STANDING COMMITTEE REPORT

March 19, 2013

Page 1 of 1

Mr. President:

We, your committee on **Fish and Game** recommend that **House Bill 328** (third reading copy -- blue) **be concurred in.**

Signed.   
*Senator John Brenden, Chair*

To be carried by Senator Jennifer Fielder

- END -

**Committee Vote:**

**Yes 9, No 1**

Fiscal Note Required

HB0328001SC15235.swr

## BILL TABLED NOTICE

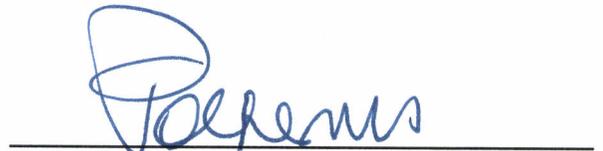
### SENATE FISH AND GAME COMMITTEE

The **SENATE FISH AND GAME COMMITTEE** TABLED

**SB 381 - Revise qualifications, fee for nonresident relative hunting, fishing licenses -  
Sen. Chas Vincent**

by motion, on **Tuesday, March 19, 2013** (PLEASE USE THIS ACTION DATE IN LAWS BILL  
STATUS).

  
\_\_\_\_\_  
(For the Committee)

  
\_\_\_\_\_  
(For the Secretary of the Senate)

1:00 / 3/20  
(Time) (Date)

March 20, 2013 (1:26pm)

Mary Kulawik, Secretary

Phone: 444-4889  
-----

**MONTANA STATE SENATE**  
**Roll Call Vote**  
**FISH AND GAME COMMITTEE**

DATE 3-19-13 BILL NO SB381 MOTION NO. \_\_\_\_\_  
 MOTION: \_\_\_\_\_

MOTION TO DP - FAILS

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR RICK RIPLEY, VICE CHAIR	✓		
SENATOR DEBBY BARRETT	✓		
SENATOR TOM FACEY		✓	
SENATOR JENNIFER FIELDER		✓	
SENATOR BRADLEY MAXON HAMLETT		✓	
SENATOR LARRY JENT		✓	
SENATOR JIM PETERSON		✓	
SENATOR FRED THOMAS		✓	
SENATOR KENDALL VAN DYK		✓	
SENATOR JOHN BRENDEN, CHAIR	✓		

3-7

**MONTANA STATE SENATE**  
**Roll Call Vote**  
**FISH AND GAME COMMITTEE**

DATE 3-19-13 BILL NO SB 178 MOTION NO. \_\_\_\_\_  
 MOTION: \_\_\_\_\_

MOTION TO PASS AMENDMENT

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR RICK RIPLEY, VICE CHAIR	✓		
SENATOR DEBBY BARRETT	✓		
SENATOR TOM FACEY		✓	
SENATOR JENNIFER FIELDER	✓		
SENATOR BRADLEY MAXON HAMLETT		✓	
SENATOR LARRY JENT		✓	
SENATOR JIM PETERSON		✓	
SENATOR FRED THOMAS		✓	
SENATOR KENDALL VAN DYK		✓	
SENATOR JOHN BRENDEN, CHAIR	✓		

4 - 6

**MONTANA STATE SENATE**  
**Roll Call Vote**  
**FISH AND GAME COMMITTEE**

DATE 3-19-13 BILL NO SB 178 MOTION NO. \_\_\_\_\_  
 MOTION: \_\_\_\_\_

DP without amendment

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR RICK RIPLEY, VICE CHAIR	✓		
SENATOR DEBBY BARRETT		✓	
SENATOR TOM FACEY	✓		
SENATOR JENNIFER FIELDER		✓	
SENATOR BRADLEY MAXON HAMLETT	✓		
SENATOR LARRY JENT	✓		
SENATOR JIM PETERSON	✓		
SENATOR FRED THOMAS	✓		
SENATOR KENDALL VAN DYK	✓		
SENATOR JOHN BRENDEN, CHAIR		✓	

7-3







**ADDITIONAL  
DOCUMENTS**



**BUFFALO FIELD CAMPAIGN**

P.O. BOX 957

WEST YELLOWSTONE, MONTANA 59758

(406) 646-0070 PHONE (406) 646-0071 FAX

<http://www.buffalofieldcampaign.org>

[buffalo@wildrockies.org](mailto:buffalo@wildrockies.org)

March 19, 2013

Chairman John Brenden and members of the Senate Fish and Game committee, Montana Senate  
PO Box 200500  
Helena, MT 59620-0500

Mr. Chairman and members of the Senate Fish & Game committee,

On behalf of Buffalo Field Campaign I am submitting testimony on HB 328. Mr. Chairman, I would also request that my testimony be shared with committee members and entered into the hearing record. Thank you.

Buffalo Field Campaign is a nonprofit 501(c)(3) whose mission is to stop the slaughter of Yellowstone's wild buffalo herd, protect the natural habitat of wild free-roaming buffalo and native wildlife, and to work with people of all Nations to honor the sacredness of the wild buffalo.

Buffalo Field Campaign is located in West Yellowstone, Gallatin County, Montana, and is supported by volunteers and citizens in Montana and by people from around the world who value America's native wildlife and the ecosystems upon which they depend, and enjoy the natural wonders of our irreplaceable public lands.

As an organization and on behalf of our members, Buffalo Field Campaign is concerned and actively involved with protecting the last remaining descendants of indigenous buffalo in North America to occupy their original range, and securing long-term protection for viable populations of wild buffalo and year-round habitat.

Buffalo Field Campaign is adamantly opposed to HB 328, for many reasons.

HB 328 repeals Montana's 'fair-chase' hunt by repealing the prohibition on state officials identifying "the actual physical location" of migratory buffalo to be hunted.

Have we forgotten the national firestorm that led the Montana legislature to pass this prohibition into law?

The feeble rationale offered by Montana Fish, Wildlife & Parks does not pass the smell test.

Ostensibly, repealing the prohibition on identifying the actual physical location of buffalo will conform to an informal policy adopted by Montana Fish, Wildlife & Parks of disclosing such information to Treaty Tribe hunters.

We do not believe the Montana legislature and Montana Fish, Wildlife & Parks fully understands that it is jeopardizing the state's buffalo hunt by repealing this common sense prohibition.

Montana can resolve this issue by adopting a policy that conforms to state law in a manner that treats all hunters equally.

If the Montana legislature wishes to avoid bringing national opprobrium upon the state once again, it needs to follow, in all instances, the prohibition on state officials identifying "the actual physical location" of migratory buffalo to be hunted.

Daniel Brister, MS  
Executive Director  
Buffalo Field Campaign  
PO Box 957  
West Yellowstone MT 59758  
phone: (406) 646-0070  
fax: (406) 646-0071  
email: [bfc@wildrockies.org](mailto:bfc@wildrockies.org)



**BUFFALO FIELD CAMPAIGN**

P.O. BOX 957

WEST YELLOWSTONE, MONTANA 59758

(406) 646-0070 PHONE (406) 646-0071 FAX

<http://www.buffalofieldcampaign.org>

[buffalo@wildrockies.org](mailto:buffalo@wildrockies.org)

**ADDITIONAL  
DOCUMENTS**

March 19, 2013

Chairman John Brenden and members of the Senate Fish and Game committee, Montana Senate  
PO Box 200500  
Helena, MT 59620-0500

Mr. Chairman and members of the Senate Fish & Game committee,

On behalf of Buffalo Field Campaign I am submitting testimony on HB 396. Mr. Chairman, I would also request that my testimony be shared with committee members and entered into the hearing record. Thank you.

Buffalo Field Campaign is a nonprofit 501(c)(3) whose mission is to stop the slaughter of Yellowstone's wild buffalo herd, protect the natural habitat of wild free-roaming buffalo and native wildlife, and to work with people of all Nations to honor the sacredness of the wild buffalo.

Buffalo Field Campaign is located in West Yellowstone, Gallatin County, Montana, and is supported by volunteers and citizens in Montana and by people from around the world who value America's native wildlife and the ecosystems upon which they depend, and enjoy the natural wonders of our irreplaceable public lands.

As an organization and on behalf of our members, Buffalo Field Campaign is concerned and actively involved with protecting the last remaining descendants of indigenous buffalo in North America to occupy their original range, and securing long-term protection for viable populations of wild buffalo and year-round habitat.

Buffalo Field Campaign is adamantly opposed to HB 396, for many reasons.

HB 396 attempts to cede state and Tribal authority over wildlife to County Commissioner(s) control by requiring their approval before any buffalo could

be released or relocated in a county or counties in Montana.

HB 396 would have the Montana legislature cede, by unconstitutional means, authority over buffalo introduced or transferred in Montana as public wildlife to County Commissioners.

Our heritage of native wildlife species does not belong to the state or any one person or interest group but to future generations who are the beneficiaries of our wildlife heritage trust.

The state has a trustee authority and responsibility for our wildlife – this constitutional duty is not a power that can be taken away from the people by the Montana legislature to benefit one body or interest group.

HB 396 would also legislate a conflict of interest by permitting the commercialization of wild buffalo - to be auctioned and sold by the Dept. of Livestock to 'offset' the costs of capturing, testing, quarantining and vaccinating the native species.

This offensive provision in HB 396 would open the door for the Montana Dept. of Livestock to turn the last buffalo population that retains their identity as a wildlife species into chattel and private property.

We strongly object, in the strongest terms, to any legislative act that attempts to commercialize our native buffalo and robs the people of Montana of our natural heritage, to be auctioned and sold off by the livestock department.

There is also an error in thinking embedded in HB 396 about who 'pays'.

Montana pays hardly anything -- but is the recipient of well over \$7 million American taxpayer dollars that has funded the government destruction of over 3,200 wild buffalo since 2000 – for the governor-approved plan embodied in MCA 81-2-120.

All of these financial agreements and reports showing Montana to be a recipient of federal taxpayer welfare are available for review online:  
<http://www.buffalofieldcampaign.org/legislative/taxpayerfunding.html>

According to the U.S. Government Accountability Office (2008), Montana is now thirteen years into its 'bison management plan' that costs over \$3,000,000 taxpayer dollars to capture, test, quarantine and vaccinate bison every year.

Instead of reviewing the changed circumstances that make MCA 81-2-120 obsolete, the legislature would commercialize our native wild buffalo and fill the coffers of the livestock department to continue on with a plan that is clearly not based upon the best available science and perpetuates a conflict of interest to the detriment of the public's native buffalo.

Please review our handout on HB 396 on the substantial, changed circumstances for cattle producers benefiting from new brucellosis regulations in Montana including taxpayer welfare.

In a time of budget cuts and economic hard times, this governor-approved plan has destroyed thousands of wild buffalo at a cost of tens of millions of taxpayer dollars – a costly, wasteful and destructive plan with no end and little accountability.

The decision over reintroducing the public's wildlife in Montana does not belong to County Commissioners. We seriously doubt that an American Indian Tribe would cede jurisdiction and sovereignty over their affairs to a board of county commissioners.

Wildlife management belongs to wildlife agencies entrusted with ensuring our wildlife heritage is protected and persists for future generations to enjoy and experience. The buffalo, a valued native species, deserves that level of trust embodied in our constitutional responsibility to conserve our natural heritage.

HB 396 is not amendable. Thank you for taking action to by voting to defeat HB 396.

Daniel Brister, MS  
Executive Director  
Buffalo Field Campaign  
PO Box 957  
West Yellowstone MT 59758  
phone: (406) 646-0070  
fax: (406) 646-0071  
email: [director@buffalofieldcampaign.org](mailto:director@buffalofieldcampaign.org)

**MONTANA'S CONSTITUTION MANDATES  
SPECIAL CONSIDERATIONS TO PRESERVE OUR WILD PLACES AND  
THE WILDLIFE THAT INHABITS THEM**

Excerpted from Montana Judge E. Wayne Phillips ruling dismissing all ten claims brought against the state in Park County Stockgrowers v. Montana (2013).

BARRETT V. STATE NEW YORK (1917) "Wherever protection is accorded [to wild animals] harm may be done to the individual. Deer or moose may browse on his crops; mink or skunks kill his chickens; robins eat his cherries. In certain cases the Legislature may be mistaken in its belief that more good than harm is occasioned. But this is clearly a matter which is confided to its discretion. It exercises a governmental function for the benefit of the public at large, and no one can complain of the incidental injuries that may result."

STATE V. HUEBNER (MONTANA 1992) "Montana's Constitution and law mandate special considerations to ensure that our wild places and the creatures that inhabit them are preserved for future generations."

PARK COUNTY STOCKGROWERS ASSOCIATION V. MONTANA (2013) "Montana's Constitution contains no provision safeguarding against threats to personal safety caused by naturally occurring conditions such as native wildlife. To the contrary, Montana's Constitution, laws, and regulations provide special considerations to assure that our wild places and the creatures that inhabit them are preserved for future generations." (citing State v. Boyer 2002)

HB 396  
handout 2

**TAXPAYER SUBSIDIES FOR CATTLE PRODUCERS AND MONTANA  
FOR IMPLEMENTING STATE LAW GOVERNING MIGRATORY BISON  
AND NEW FEDERAL BRUCELLOSIS REGULATIONS**

There has been no documented case of migratory bison infecting cattle with brucellosis in Montana, Idaho or Wyoming since brucellosis was first detected in bison in 1917.

All recent outbreaks of brucellosis in cattle in Montana, Idaho and Wyoming have been DNA traced to migratory elk, not bison (Beja-Pereira 2009).

Brucellosis was introduced to Yellowstone's migratory bison and elk populations by cattle (Meagher and Meyer 1994). Bison calves captured from the wild were "mothered with domestic bovine cows" and pastured with cattle that were brought into Yellowstone to feed Park workers and tourists. Elk were likely infected with brucellosis by cattle on state and federal "feed grounds" that unnaturally congregate wildlife.

In 1995, the Montana legislature adopted MCA 81-2-120 in response to political pressure by cattle ranchers to stop wild bison from migrating into Montana from Yellowstone National Park.

MCA 81-2-120 gives the Montana Department of Livestock jurisdiction over migratory bison and requires a governor approved plan that severely restricts available habitat for bison and subjects the native species to livestock management techniques. Migratory elk populations freely range Montana under Fish, Wildlife & Parks jurisdiction.

Part of the legislative justification for MCA 81-2-120 was the threat of sanctions against Montana cattle ranchers for violating federal brucellosis regulations.

MCA 81-2-120 guides Montana's participation in a governor approved bison management plan adopted after a complaint was filed and legal settlement was reached by the state with several federal agencies.

Adopted in 2000, the Interagency Bison Management Plan is estimated to cost American taxpayers over \$3,000,000 annually based on U.S. Government Accountability Office (GAO) estimates.

The GAO reports the bison management plan is nearly completely paid for by American taxpayers with total U.S. Treasury expenditures of \$3,304,817 in 2006. To date, the plan has cost American taxpayers over \$30,000,000.

No current estimate of taxpayer costs is available from the agencies involved to operationally fund the Interagency Bison Management Plan through 2015, the time period studied for environmental impacts.

Montana's participation in the bison plan is nearly all paid for by American taxpayers through funding agreements that have been in place since before 2000 with the U.S. Department of Agriculture Animal and Plant Health Inspection Service (APHIS).

In 2010, APHIS granted \$525,000 to the Montana Department of Livestock to fund its

role in the Interagency Bison Management Plan. From 2001 to 2010, nearly \$6,000,000 in American taxpayer funding was given to the livestock agency to enforce MCA 81-2-120.

Additionally, APHIS provides funding to the Montana Department of Livestock to implement new federal brucellosis regulations in Designated Surveillance Areas in portions of Beaverhead, Gallatin, Madison and Park counties in southwestern Montana.

The new rules remove the threat of whole herd cattle slaughter, loss of the state's brucellosis free status, and threat of state sanctions against Montana cattle that contract brucellosis.

The Designated Surveillance Areas (DSA) cost \$431,000 annually with about half the costs of managing cattle under the new rules paid for by Montana taxpayers.

Cattle producers within the DSA realize a net benefit of \$9.50-\$14.00 per head from testing cattle, and veterinarians are reimbursed for labor, lab fees, shipping and supplies. Montana calculated the new regulations provide an annual net benefit to cattle ranchers statewide of \$5.5 million to \$11.5 million.

All sources can be downloaded online at the web links provided here:

<http://www.buffalofieldcampaign.org/legislative/taxpayerfunding.html>

<http://www.buffalofieldcampaign.org/habitat/bisonconservation.html>

1. Beja-Pereira, Albano, Betsy Bricker, Shanyuan Chen, Claudia Almendra, P. J. White, and Gordon Luikart. 2009. DNA Genotyping Suggests that Recent Brucellosis Outbreaks in the Greater Yellowstone Area Originated from Elk. *Journal of Wildlife Diseases* 45(4): 1174-1177.
2. Meagher, Margaret M. 1973. *The Bison of Yellowstone National Park*. Scientific Monograph Series Number One. National Park Service, Washington, D.C. 161 pp.
3. Meagher, M. and Margaret E. Meyer. 1994. On the Origin of Brucellosis in Bison of Yellowstone National Park: A Review. *Conservation Biology* 8(3): 645-653.
4. Montana Dept. of Livestock, Bison Operations and GYIBC History of Expenditures FY 01 through FY 07.
5. Montana Dept. of Livestock and U.S. Dept. of Agriculture APHIS, Cooperative Funding Agreements FY 2008, FY 2009, FY 2010.
6. Montana Dept. of Livestock, PRELIMINARY EPIDEMIOLOGY REPORT MONTANA BRUCELLOSIS, September 19, 2008.
7. Montana Dept. of Livestock, Designated Surveillance Area Economic Impact Statement, 2011. Online: [www.liv.mt.gov/brucellosis/default.mcp](http://www.liv.mt.gov/brucellosis/default.mcp)
8. Montana Dept. of Livestock, Economic Analysis: MDOL's DSA Worth Millions to Cattle Producers, State, March 4, 2011. Online: <http://liv.mt.gov/news/2011/20110304.mcp>
9. U.S. Government Accountability Office, "YELLOWSTONE BISON, Interagency Plan and Agencies' Management Need Improvement to Better Address Bison-Cattle Brucellosis Controversy," March 7, 2008. Online: [www.gao.gov/products/GAO-08-291](http://www.gao.gov/products/GAO-08-291).