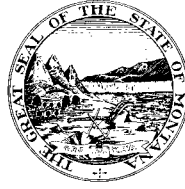


OFFICE OF THE GOVERNOR  
STATE OF MONTANA

STEVE BULLOCK  
GOVERNOR



JOHN WALSH  
LT. GOVERNOR

May 6, 2013

The Honorable Linda McCulloch  
Secretary of State  
State Capitol  
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 256 (SB 256), "AN ACT MAKING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS LIABLE FOR DAMAGE TO PRIVATE PROPERTY BY CERTAIN WILD BUFFALO AND BISON; REQUIRING AN ESTIMATION OF PRIVATE PROPERTY DAMAGE AND COSTS FOR WHICH THE DEPARTMENT WOULD BE LIABLE IF A WILD BUFFALO OR BISON PROPOSED FOR RELEASE OR TRANSPLANTATION ESCAPES; PROVIDING AN APPROPRIATION; AMENDING SECTION 87-1-216, MCA; AND PROVIDING AN EFFECTIVE DATE."

SB 256 would impose liability on the State of Montana for any damage to private property that results from wild buffalo and bison that have been transplanted or released. This would be the first time that, absent malfeasance, such a liability would be imposed on the State for the impacts of wild animals, even transplanted ones. The bill does not define what constitutes damage to private property, and sets the stage for litigation and potentially significant liability claims. For example, under SB 256, the State could be liable for the grass lost to grazing. In addition, as stated in the fiscal note, after fiscal year 2015 the Department of Fish, Wildlife & Parks (FWP) would be forced to divert license funds to pay for any damages, jeopardizing more than \$18 million in federal funds.

SB 256 would set an unacceptable precedent. If applied to other species, this rationale would practically preclude any wildlife restoration efforts, regardless of the benefits. If this precedent had existed 100 years ago, Montana's world-class wildlife heritage would not exist today.

Just as troubling is the idea that the State should pay for damage to property resulting from the actions of any wild animal, whether that would be wild bison eating grass in Eastern Montana, mule deer eating tulips in Helena, or a moose getting in the way of a vehicle in the Swan Valley. As recognized long ago, landowners in Montana fully understand that wildlife are practically part of the land itself:

"Montana is one of the few areas in the nation where wild game abounds. It is regarded as one of the greatest of the state's natural resources, as well as the chief attraction for visitors. Wild game existed here long before the coming of man. One who acquires property in

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Montana does so with notice and knowledge of the presence of wild game and presumably is cognizant of its natural habits. Wild game does not possess the power to distinguish between *fructus naturales* and *fructus industriales*, and cannot like domestic animals be controlled through an owner. Accordingly, a property owner in this state must recognize the fact that there may be some injury to property or inconvenience from wild game for which there is no recourse." State of Montana v. Rathbone, 110 MT 225, 242 (1940).

Finally, it is worth noting that existing statute in 87-1-216, MCA, already directs FWP to develop and adopt, with full public participation, a specific management plan prior to any restoration effort on private or public land in Montana. This statute explicitly provides that FWP may be liable for damage to private property resulting from its failure to comply with the statute.

I am committed to improving the relationship between the sportsmen and women, FWP, and landowners of this state, and am grateful to the many landowners who provide vital habitat for our great wildlife herds. Their actions benefit all of us who are fortunate to live here. We must do more to work together, but SB 256 is not the answer.

For these reasons, I veto SB 256.

Sincerely,



STEVE BULLOCK  
Governor

cc: Legislative Services Division  
Jeff Essmann, President of the Senate  
Mark Blasdel, Speaker of the House