

115TH CONGRESS  
1ST SESSION

# S. 368

To require the Director of the United States Fish and Wildlife Service to issue a scientifically valid and State-supported recovery plan for the Mexican gray wolf.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2017

Mr. FLAKE introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To require the Director of the United States Fish and Wildlife Service to issue a scientifically valid and State-supported recovery plan for the Mexican gray wolf.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mexican Gray Wolf  
5 Recovery Plan Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) DIRECTOR.—The term “Director” means  
2           the Director of the United States Fish and Wildlife  
3           Service.

4           (2) MEXICAN GRAY WOLF.—The term “Mexican  
5           gray wolf” means the subspecies classified as the  
6           Mexican gray wolf (*Canis lupus baileyi*) of the spe-  
7           cies gray wolf (*Canis lupus*) (as of the date of enact-  
8           ment of this Act).

9           (3) PREY.—The term “prey” means wild  
10          ungulates and other wild animals.

11 **SEC. 3. RECOVERY PLAN FOR MEXICAN GRAY WOLVES.**

12          (a) IN GENERAL.—Not later than 180 days after the  
13          date of enactment of this Act, the Director shall publish  
14          a revised recovery plan for the Mexican gray wolf popu-  
15          lations in the States of Arizona and New Mexico.

16          (b) CONTENTS.—The recovery plan described in sub-  
17          section (a) shall include—

18               (1) the requirements described in section  
19               4(f)(1)(B) of the Endangered Species Act (16  
20               U.S.C. 1533(f)(1)(B)), unless otherwise provided in  
21               this subsection;

22               (2) an assertion that State and individual inter-  
23               ests and cooperation are crucial components to the  
24               recovery of the Mexican gray wolf;

1           (3) the input of State entities and individuals,  
2 including—

3           (A) State wildlife authorities;

4           (B) livestock producers;

5           (C) ranchers;

6           (D) managers or owners of—

7                 (i) natural resources; or

8                 (ii) private land;

9           (E) recreation interests;

10           (F) affected county governments; and

11           (G) other interested State parties;

12           (4) recovery goals for the Mexican gray wolf in  
13 the States of Arizona and New Mexico, as deter-  
14 mined by the agreements between the Director, the  
15 States of Arizona and New Mexico, and State inter-  
16 ests, that—

17           (A) comply with section 4(f)(1)(B)(ii) of  
18 the Endangered Species Act (16 U.S.C.  
19 1533(f)(1)(B)(ii)); and

20           (B) include an enforceable maximum popu-  
21 lation of the Mexican gray wolf that—

22                 (i) ensures that—

23                         (I) the population of Mexican  
24 gray wolves in the States of Arizona

1 and New Mexico does not reach an  
2 unsustainable level; and

3 (II) the range of Mexican gray  
4 wolves in the States of Arizona and  
5 New Mexico is acceptable to a major-  
6 ity of the State entities and individ-  
7 uals described in paragraph (3); and

8 (ii) is not more than a number of  
9 Mexican gray wolves that is agreed on by,  
10 and acceptable to, the State entities and  
11 individuals described in paragraph (3) in  
12 accordance with paragraphs (5) and (6);

13 (5) the decrease of wild ungulate species in the  
14 States of Arizona and New Mexico due to the Mexi-  
15 can gray wolf, as determined to be acceptable to the  
16 State entities and individuals described in paragraph  
17 (3);

18 (6) a description of the acceptable and unac-  
19 ceptable impacts on—

20 (A) wild game;

21 (B) livestock; and

22 (C) recreation in the States of Arizona and  
23 New Mexico due to—

24 (i) the Mexican gray wolf population;

25 and

1 (ii) the management of the Mexican  
2 gray wolf;

3 (7) a range for the Mexican gray wolf during  
4 and after recovery that—

5 (A) ensures a suitable habitat and prey  
6 base;

7 (B) does not allow the Mexican gray wolf  
8 to disperse north of Interstate 40 in the States  
9 of Arizona and New Mexico; and

10 (C) focuses on areas that can support a ro-  
11 bust wild ungulate population;

12 (8) a description of the efforts that the Director  
13 will make to share with Mexico all Federal and State  
14 knowledge, history, and expertise relating to Mexi-  
15 can gray wolf recovery efforts to ensure that any re-  
16 covery effort by Mexico is successful; and

17 (9) a statement by the Director that, if the Di-  
18 rector does not comply with subsection (a), as deter-  
19 mined by the State wildlife authority of the State of  
20 Arizona or New Mexico, the Director will allow the  
21 State wildlife authority to submit a proposal to as-  
22 sume or supplement the management of the Mexican  
23 gray wolf in the relevant State.

24 (c) MANAGEMENT BY THE STATE.—

25 (1) NONCOMPLIANCE BY THE DIRECTOR.—

1 (A) IN GENERAL.—If the Director does not  
2 comply with subsection (a), the State wildlife  
3 authority of the State of Arizona or New Mex-  
4 ico may make a determination of noncompli-  
5 ance.

6 (B) PROPOSAL.—Not later than 90 days  
7 after the date on which the State wildlife au-  
8 thority of the State of Arizona or New Mexico  
9 makes a determination under subparagraph  
10 (A), the State wildlife authority of each State  
11 in which the Mexican gray wolf is present may  
12 submit to the Director a proposal to assume or  
13 supplement the management of the Mexican  
14 gray wolf.

15 (C) APPROVAL OF PROPOSAL.—On the  
16 date on which the Director receives from a  
17 State wildlife authority a proposal referred to in  
18 subparagraph (B), the Director shall approve  
19 the proposal.

20 (2) MANAGEMENT BY STATE WILDLIFE AU-  
21 THORITY.—Not later than 90 days after the date on  
22 which the Director approves a proposal under para-  
23 graph (1)(C), the Director shall allow the State wild-  
24 life authority to assume or supplement the manage-  
25 ment of the Mexican gray wolf in the relevant State.

1           (3) AGREEMENTS.—If a State wildlife authority  
2           assumes or supplements the management of the  
3           Mexican gray wolf under paragraph (2), the State  
4           wildlife authority shall manage the Mexican gray  
5           wolf in accordance with the agreement between the  
6           State and the Director that—

7                   (A) was made in the development of the  
8                   recovery plan described in subsection (a); and

9                   (B) included in the recovery plan under  
10                  subsection (b).

11          (4) ELIGIBILITY FOR FUNDING.—In the case of  
12          the management of the Mexican gray wolf by a  
13          State wildlife authority under paragraph (2), the  
14          State wildlife authority shall be eligible to apply for  
15          funding from—

16                  (A) the cooperative endangered species  
17                  conservation fund established under section 6 of  
18                  the Endangered Species Act of 1973 (16 U.S.C.  
19                  1535);

20                  (B) the State and tribal wildlife conserva-  
21                  tion grant program established under title I of  
22                  division A of Public Law 111–88 (123 Stat.  
23                  2909); and

24                  (C) the Federal aid to wildlife restoration  
25                  fund established under section 3(a)(1) of the

1 Pittman-Robertson Wildlife Restoration Act (16  
2 U.S.C. 669b(a)(1)).

3 **SEC. 4. EXCEEDANCE OF POPULATION.**

4 (a) IN GENERAL.—In the case of an exceedance of  
5 the acceptable and enforceable maximum population of  
6 Mexican gray wolves referred to in section 3(b)(4)(B), the  
7 Director shall use a scientifically sound method to reduce  
8 the population of the Mexican gray wolf, including the re-  
9 moval of the appropriate number of Mexican gray wolves  
10 from the State of Arizona or New Mexico and relocation  
11 of those Mexican gray wolves within the range referred  
12 to in section 3(b)(7).

13 (b) WILD UNGULATE HERDS.—In the case of a de-  
14 cline of a wild ungulate herd by more than the decrease  
15 referred to in section 3(b)(5), the Director shall carry out  
16 a management action for the Mexican gray wolf, including  
17 the removal of an appropriate number of Mexican gray  
18 wolves from the area in which the wild ungulate herd is  
19 located for relocation within the range referred to in sec-  
20 tion 3(b)(7).

21 **SEC. 5. DELISTING OF MEXICAN GRAY WOLVES.**

22 (a) IN GENERAL.—Effective beginning on the date  
23 on which the Director determines that the population goal  
24 for the Mexican gray wolf referred to in section 3(b)(4)  
25 has been reached—



1           (1) the Mexican gray wolf shall no longer be in-  
2           cluded on any list of endangered species, threatened  
3           species, or experimental populations under the En-  
4           dangered Species Act of 1973 (16 U.S.C. 1531 et  
5           seq.); and

6           (2) management of the Mexican gray wolf shall  
7           be assumed by each State in which the Mexican gray  
8           wolf is present.

9           (b) NO JUDICIAL REVIEW.—The determination by  
10          the Director to remove the Mexican gray wolf from any  
11          list of endangered species, threatened species, or experi-  
12          mental populations under the Endangered Species Act of  
13          1973 (16 U.S.C. 1531 et seq.), shall not be subject to judi-  
14          cial review.

15          (c) STATE DETERMINATION.—Before the date on  
16          which the Director delists the Mexican gray wolf under  
17          subsection (a), subject to sections 3 and 4, each State in  
18          which the Mexican gray wolf is present shall determine  
19          a number of Mexican gray wolves below which, or other  
20          specific criteria by which, the Director may make a deter-  
21          mination to include the Mexican gray wolf on a list of en-  
22          dangered species, threatened species, or experimental pop-  
23          ulations under section 4 of the Endangered Species Act  
24          of 1973 (16 U.S.C. 1533).

1 (d) MONITORING.—The Director shall carry out mon-  
2 itoring activities under section 4(g) of the Endangered  
3 Species Act of 1973 (16 U.S.C. 1533(g)) to determine the  
4 number of Mexican gray wolves in the States of Arizona  
5 and New Mexico.

6 (e) NO FURTHER LISTING.—

7 (1) IN GENERAL.—Subject to subsection (c)  
8 and paragraph (2), after the date on which the Di-  
9 rector has delisted the Mexican gray wolf under sub-  
10 section (a), the Director shall not make any deter-  
11 mination that results in the inclusion of the Mexican  
12 gray wolf on any list of endangered species, threat-  
13 ened species, or experimental populations under the  
14 Endangered Species Act of 1973 (16 U.S.C. 1531 et  
15 seq.).

16 (2) EXCEPTION.—Notwithstanding paragraph  
17 (1) and subject to subsection (c), the Director may  
18 include the Mexican gray wolf on a list of endan-  
19 gered species, threatened species, or experimental  
20 populations under the Endangered Species Act of  
21 1973 (16 U.S.C. 1531 et seq.), if the population  
22 numbers, impacts, and range described in the recov-  
23 ery plan described in section 3(a) are not main-  
24 tained.

1 (f) NO FURTHER RECOVERY PLANS.—After the date  
2 on which the Director publishes the recovery plan de-  
3 scribed in section 3(a), the Director shall not publish any  
4 recovery plan for the Mexican gray wolf, unless the Direc-  
5 tor makes a determination described in subsection (c) or  
6 (e)(2).

7 **SEC. 6. RECLASSIFICATION OF MEXICAN GRAY WOLF.**

8 This Act shall apply to the Mexican gray wolf not-  
9 withstanding any reclassification of the Mexican gray wolf  
10 as a subspecies, a distinct population segment, or a species  
11 other than the subspecies classified as the Mexican gray  
12 wolf (*Canis lupus baileyi*) of the species gray wolf (*Canis*  
13 *lupus*) (as of the date of enactment of this Act).

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