

TRUST THE SCIENCE ACT

SEPTEMBER 20, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WESTERMAN, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 764]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 764) to require the Secretary of the Interior to reissue regulations removing the gray wolf from the list of endangered and threatened wildlife under the Endangered Species Act of 1973, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 764 is to require the Secretary of the Interior to reissue regulations removing the gray wolf from the list of endangered and threatened wildlife under the Endangered Species Act of 1973.

BACKGROUND AND NEED FOR LEGISLATION

The bill requires the Department of the Interior to reissue the final rule titled “Endangered and Threatened Wildlife and Plants; Removing the gray wolf (*Canis lupus*) From the List of Endangered and Threatened Wildlife” and published on November 3, 2020 (85 Fed. Reg. 69778). The rule removed the gray wolf in the lower 48 United States, except for the Mexican wolf (*C. l. baileyi*) subspecies, from the list of protected species under the Endangered Species Act

(ESA). The bill also prohibits the rule from being subject to judicial review.

Prior to the enactment of the ESA in 1973, the U.S. Fish and Wildlife Service (USFWS) had listed some gray wolf subspecies for protection.¹ In 1978, after the passage of the ESA, the USFWS combined these listings into one listing the gray wolf species as endangered throughout the lower 48 states (except Minnesota) and a separate listing for the gray wolf in Minnesota as threatened.² The 1978 rule specified that “biological subspecies would continue to be maintained and dealt with as separate entities.”³ As such, the USFWS implemented gray wolf recovery programs in three regions: the northern Rocky Mountains, the southwestern United States (for the Mexican wolf), and the eastern United States (including the Great Lakes States) for the eastern timber wolf.⁴

The Great Lakes region has the largest concentration of gray wolves in the lower 48 states, with approximately 4,200 wolves that inhabit the states of Minnesota, Wisconsin, and Michigan.⁵ Under the current management framework, wolves in Minnesota are listed as threatened, whereas wolves in Wisconsin and Michigan are listed as endangered.⁶ The recovery plan for the gray wolf in the Great Lakes is quite clear when it comes to criteria for delisting: a stable or increasing population of wolves in Minnesota and at least 200 wolves outside of the Minnesota population.⁷ According to a former wildlife biologist for the Wisconsin Department of Natural Resources, Nathan Roberts, “these goals have been met since at least 1994.” He went on to say, “It is remarkable to note that, given the natural life span of wolves, every wolf on the landscape in the Great Lakes region was born long after recovery goals were met.”⁸

Between 2003 and 2015, the USFWS published several rules revising the 1978 rule to incorporate new information and recognize the biological recovery of gray wolves in the northern Rocky Mountains and eastern United States (including the Great Lakes States). These rules were challenged in court and invalidated or vacated, in part, on the determinations that the USFWS distinct population segment (DPS) designations were legally flawed.⁹

In 2009, the USFWS published final rules designating and delisting the western Great Lakes DPS and the northern Rocky Mountain DPS, except it did not delist the gray wolf in Wyoming after finding the state’s management plan inadequate.¹⁰ The western Great Lakes DPS was challenged by the Humane Society on

¹The USFWS listed the first gray wolf subspecies, the eastern timber wolf as endangered in 1967 under the Endangered Species Preservation Act of 1966. In 1973, the USFWS listed the northern Rocky Mountain wolf (*C. lupus irremotus*) as endangered.

²“U.S. District Court Vacates Gray Wolf Delisting Rule.” Erin H. Ward. Congressional Research Service. LSB10697 (congress.gov).

³43 FR 9607, March 9, 1978.

⁴Id.

⁵“America’s Gray Wolves Get Another Chance at Real Recovery.” Natural Resources Defense Council. Shelia Hu. April 21, 2022. America’s Gray Wolves Get Another Chance at Real Recovery (nrdc.org).

⁶“U.S. District Court Vacates Gray Wolf Delisting Rule.” Erin H. Ward. Congressional Research Service. LSB10697 (congress.gov).

⁷“Recovery Plan For the Eastern Timber Wolf.” U.S. Fish and Wildlife Service, Region 3. January 31, 1992. <https://www.govinfo.gov/content/pkg/GOVPUB-I49-PURL-LPS37439/pdf/GOVPUB-I49-PURL-LPS37439.pdf>.

⁸“Testimony of Nathan Roberts.” House Committee on Natural Resources. March 23, 2023. testimony_roberts.pdf (house.gov).

⁹Id.

¹⁰74 Fed. Reg. 15,070 (Apr. 2, 2009); 74 Fed. Reg. 15,123 (Apr. 2, 2009).

the grounds that the USFWS violated the Administrative Procedures Act's notice and comment requirements. Ultimately, the USFWS reached a settlement agreement and withdrew the rule.¹¹ The northern Rocky Mountain DPS rule was challenged by Defenders of Wildlife and the Montana federal district court vacated the 2009 Northern Rocky Mountain DPS rule after concluding that the ESA did not allow the USFWS to list a partial DPS.¹² However, an act of Congress in 2011 directed the USFWS to reinstate the 2009 rule designating and delisting the northern Rocky Mountain DPS without Wyoming.¹³

In 2017, after several years of litigation, the USFWS delisted the gray wolf in Wyoming. Therefore, starting in 2017 there were three distinct regulatory frameworks for gray wolf population areas: (1) the northern Rockies Mountains (Idaho, Montana, and Wyoming), where the wolf was not listed; (2) in Minnesota, where the gray wolf is listed as threatened; and (3) in all other areas of the lower 48 states, where the gray wolf is listed as endangered.¹⁴ In November 2020, the Trump administration finalized a rule that delisted the gray wolf, except for the Mexican wolf, and returned management of the species to each of the lower 48 states.¹⁵

The 2020 rule was challenged by Defenders of Wildlife, WildEarth Guardians, and other environmental groups and in February 2022, The U.S. District Court for the Northern District of California vacated the rule.¹⁶ The court found that the USFWS had failed to show that gray wolf populations could be sustained outside of the core populations in the western Great Lakes and northern Rocky Mountains.¹⁷ This ruling reinstated ESA protections for the gray wolf in the lower 48 states. This decision does not impact the Northern Rockies Ecosystem.¹⁸ The Biden administration's Department of Justice appealed the ruling.¹⁹

Delisting the gray wolf in the lower 48 states has traditionally had bipartisan support. In 2013, the Obama administration proposed delisting the gray wolf in the lower 48 states, but the rule was never finalized due to backlash from environmental groups.²⁰ In the 115th Congress, the House of Representatives passed similar legislation to H.R. 764 by a vote of 196–180 (with 9 Democrats voting in favor of the legislation).²¹

¹¹Humane Soc'y of the U.S. v. Salazar, No. 1:09–CV–1092 (D.D.C. July 2, 2009) (settlement order).

¹²Defenders of Wildlife v. Salazar, 812 F. Supp. 2d 1205, 1207 (D. Mont. 2009).

¹³Public Law 112–10, Department of Defense and Full-year Continuing Appropriations Act of 2011, Section 1713.

¹⁴“U.S. District Court Vacates Gray Wolf Delisting Rule.” Erin H. Ward. Congressional Research Service. LSB10697 (congress.gov).

¹⁵85 Fed. Reg. 69,778 (Nov. 3, 2020).

¹⁶“U.S. District Court Vacates Gray Wolf Delisting Rule.” Erin H. Ward. Congressional Research Service. LSB10697 (congress.gov).

¹⁷U.S. District Court Northern District of California. *Defenders of Wildlife, Et. Al. v. U.S. Fish and Wildlife Service, Et Al.* February 10, 2022.

¹⁸“Judge restores gray wolf protections.” Michael Doyle. E&E News. February 10 2022. Judge restores gray wolf protections—E&E News (eenews.net).

¹⁹“Shocking News as U.S. Department of Justice Appeals Restoration of Gray Wolf Protections in Most of the Lower 48 States.” Lauren Lewis. World Animal News. May 2, 2022. <https://worldanimalnews.com/breaking-disheartening-news-as-u-s-department-of-justice-appeals-restoration-of-gray-wolf-protections-in-most-of-the-lower-48-states/>.

²⁰“Obama Administration Strips Wolf Protections Across Most of the Lower 48 States.” Center for Biological Diversity. July 7, 2013. Obama Administration Strips Wolf Protections Across Most of Lower 48 States (biologicaldiversity.org).

²¹H.R. 6784, “Manage our Wolves Act”. H.R.6784—115th Congress (2017–2018): Manage our Wolves Act | Congress.gov | Library of Congress.

COMMITTEE ACTION

H.R. 764 was introduced on February 2, 2023, by Rep. Lauren Boebert (R-CO). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Wildlife and Fisheries. On March 23, 2023, the Subcommittee on Water, Wildlife and Fisheries held a hearing on the bill. On April 27–28, 2023, the Committee on Natural Resources met to consider the bill. The Subcommittee on Water, Wildlife and Fisheries was discharged from further consideration of H.R. 764 by unanimous consent. Rep. Jared Huffman (D-CA) offered an amendment designated Huffman #1. The amendment was not adopted by a roll call vote of 13 yeas to 19 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
118th Congress

Date: April 28, 2023

Recorded Vote #: 4

Meeting on / Amendment on: Huffman #1 Amendment to H.R. 764 (Boebert), "Trust the Science Act"

MEMBERS				MEMBERS			
	Yea	Nay	Pres		Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA		X		Mr. Sablan, CNMI			
Mr. McClintock, CA		X		Mr. Huffman, CA			
Mr. Gosar, AZ				Mr. Gallego, AZ	X		
Mr. Graves, LA		X		Mr. Neguse, CO			
Mrs. Radewagen, AS				Mr. Lavin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR				Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X		
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY			
Mr. Curtis, UT		X		Mr. Mullin, CA			
Mr. Tiffany, WI		X		Ms. Hoyle, OR			
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MI		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO		X		Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI	X		
Ms. Kiggans, VA		X		Mrs. Dingell, MI	X		
Mr. Moylan, Guam				Ms. Lee, NV	X		
Mr. Hunt, TX							
Mr. Collins, GA		X					
Ms. Luna, FL							
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	13	19	

Rep. Debbie Dingell (D-MI) offered an amendment designated Dingell #3. The amendment was not adopted by a roll call vote of 15 yeas to 20 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
118th Congress

Date: April 28, 2023

Recorded Vote #: 5

Meeting on / Amendment on: Dingell #3 Amendment to H.R. 764 (Boebert), "Trust the Science Act"

MEMBERS				MEMBERS			
	Yea	Nay	Pres		Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA		X		Mr. Sablan, CNMI			
Mr. McClintock, CA		X		Mr. Huffman, CA	X		
Mr. Gosar, AZ				Mr. Gallego, AZ	X		
Mr. Graves, LA		X		Mr. Neguse, CO			
Mrs. Radewagen, AS				Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR				Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X		
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY			
Mr. Curtis, UT		X		Mr. Mullin, CA	X		
Mr. Tiffany, WI		X		Ms. Hoyle, OR			
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO		X		Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Casa, HI	X		
Ms. Kiggans, VA		X		Mrs. Dingell, MI	X		
Mr. Movlan, Guam				Ms. Lea, NV	X		
Mr. Hunt, TX							
Mr. Collins, GA		X					
Ms. Luna, FL		X					
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	15	20	

Rep. Jared Huffman (D-CA) offered an amendment designated Huffman #4. The amendment was not adopted by a roll call vote of 16 yeas to 20 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
118th Congress

Date: April 28, 2023

Recorded Vote #: 6

Meeting on / Amendment on: **Huffman #4 Amendment to H.R. 764 (Boebert), "Trust the Science Act"**

MEMBERS			Yea	Nay	Pres	MEMBERS			Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X				Mr. Grijalva, AZ, Ranking	X				
Mr. Lamborn, CO		X				Ms. Napolitano, CA	X				
Mr. Wittman, VA		X				Mr. Sablan, CNMI					
Mr. McClintock, CA		X				Mr. Huffman, CA	X				
Mr. Gosar, AZ						Mr. Gallego, AZ	X				
Mr. Graves, LA		X				Mr. Neguse, CO	X				
Mrs. Radewagen, AS						Mr. Levin, CA	X				
Mr. LaMalfa, CA		X				Ms. Porter, CA	X				
Mr. Webster, FL		X				Ms. Leger Fernandez, NM	X				
Ms. González-Colón, PR						Ms. Stansbury, NM	X				
Mr. Fulcher, ID		X				Mrs. Peltola, AK	X				
Mr. Stauber, MN		X				Ms. Ocasio-Cortez, NY					
Mr. Curtis, UT		X				Mr. Mullin, CA	X				
Mr. Tiffany, WI		X				Ms. Hoyle, OR					
Mr. Carl, AL		X				Ms. Kamlager-Dove, CA	X				
Mr. Rosendale, MT		X				Mr. Magaziner, RI	X				
Mrs. Boebert, CO		X				Ms. Velázquez, NY					
Mr. Bentz, OR		X				Mr. Case, HI	X				
Ms. Kiggans, VA		X				Mrs. Dingell, MI	X				
Mr. Moylan, Guam						Ms. Lee, NV	X				
Mr. Hunt, TX											
Mr. Collins, GA		X									
Ms. Luna, FL		X									
Mr. Duarte, CA		X									
Ms. Hageman, WY		X									
						TOTAL:	16	20			

Rep. Debbie Dingell (D-MI) offered an amendment designated Dingell #6. The amendment was not adopted by a roll call vote of 16 yeas to 20 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
118th Congress

Date: April 28, 2023

Recorded Vote #: 7

Meeting on / Amendment on: Dingell #6 Amendment to H.R. 764 (Boebert), "Trust the Science Act"

MEMBERS				MEMBERS			
	Yea	Nay	Pres		Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA		X		Mr. Sablan, CNMI			
Mr. McClintock, CA		X		Mr. Huffman, CA	X		
Mr. Gosar, AZ				Mr. Gallego, AZ	X		
Mr. Graves, LA		X		Mr. Neguse, CO	X		
Mrs. Radewagen, AS				Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR				Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X		
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY			
Mr. Curtis, UT		X		Mr. Mullin, CA	X		
Mr. Tiffany, WI		X		Ms. Hoyle, OR			
Mr. Carl, AL		X		Ms. Kamlager-Dova, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mr. Boebert, CO		X		Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI	X		
Ms. Kiggans, VA		X		Mrs. Dingell, MI	X		
Mr. Movlan, Guam				Ms. Lee, NV	X		
Mr. Hunt, TX							
Mr. Collins, GA		X					
Ms. Luna, FL		X					
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	16	20	

Rep. Debbie Dingell (D-MI) offered an amendment designated Dingell #7. The amendment was not adopted by a roll call vote of 16 yeas to 21 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
118th Congress

Date: April 28, 2023

Recorded Vote #: 8

Meeting on / Amendment on: Dingell #7 Amendment to H.R. 764 (Boebert), "Trust the Science Act"

MEMBERS				MEMBERS			
	Yea	Nay	Pres		Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA		X		Mr. Sablan, CNMI			
Mr. McClintock, CA		X		Mr. Huffman, CA	X		
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X		
Mr. Graves, LA		X		Mr. Neguse, CO	X		
Mrs. Radewagen, AS				Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Portier, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR				Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X		
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY			
Mr. Curtis, UT		X		Mr. Mullin, CA	X		
Mr. Tiffany, WI		X		Ms. Hoyle, OR			
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO		X		Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI	X		
Ms. Kiggans, VA		X		Mrs. Dingell, MI	X		
Mr. Movlan, Guam				Ms. Lee, NV	X		
Mr. Hunt, TX							
Mr. Collins, GA		X					
Ms. Luna, FL		X					
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	16	21	

Ranking Member Raúl Grijalva (D-AZ) offered an amendment, on behalf of Rep. Ed Case (D-HI), designated Case #5. The amendment was not adopted by a roll call vote of 16 yeas to 21 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
118th Congress

Date: April 28, 2023

Recorded Vote #: 9

Meeting on / Amendment on: Case #5 Amendment offered by Rep. Grijalva to H.R. 764 (Boebert),
"Trust the Science Act"

MEMBERS				MEMBERS			
	Yea	Nay	Pres		Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA		X		Mr. Sablan, CNMI			
Mr. McClintock, CA		X		Mr. Huffman, CA	X		
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X		
Mr. Graves, LA		X		Mr. Neguse, CO	X		
Mrs. Radewagen, AS				Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR				Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X		
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY			
Mr. Curtis, UT		X		Mr. Mullin, CA	X		
Mr. Tiffany, WI		X		Ms. Hoyls, OR			
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO		X		Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI	X		
Ms. Kiggans, VA		X		Mrs. Dingell, MI	X		
Mr. Moylan, Guam				Ms. Lee, NV	X		
Mr. Hunt, TX							
Mr. Collins, GA		X					
Ms. Luna, FL		X					
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	16	21	

The bill was then ordered favorably reported to the House of Representatives by a roll call vote of 21 yeas to 16 nays, as follows:

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Water, Wildlife and Fisheries held on March 23, 2023.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 establishes the short title of the bill as the “Trust the Science Act.”

Section 2. Removing the Gray Wolf From the List of Endangered and Threatened Wildlife

Section 2 requires the Secretary of the Interior, not later than 60 days after the date of enactment of this section, to reissue the final rule entitled “Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (*Canis lupus*) From the List of Endangered and Threatened Wildlife” and published on November 3, 2020 (85 Fed. Reg. 69778).

Section 3. No judicial review

Section 3 precludes reissuance of the final rule under section 2 from judicial review.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and section 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

H.R. 764, Trust the Science Act			
As ordered reported by the House Committee on Natural Resources on April 28, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	*	*
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	*	*	*
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Under Threshold
* = between -\$500,000 and \$500,000.			

H.R. 764 would require the Secretary of the Interior within 60 days of the bill's enactment to reissue a final rule, "Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (*Canis lupus*) From the List of Endangered and Threatened Wildlife," which was submitted by the U.S. Fish and Wildlife Service (USFWS) and published in the Federal Register on November 3, 2020. The bill also would prohibit judicial review of that rule. The rule removed from the list all gray wolves (except the Mexican wolf) in the continental United States and Mexico, effective January 4, 2021. A court order in February 2022 reinstated the gray wolves' protections under the Endangered Species Act (ESA); they are currently listed as threatened in Minnesota and endangered elsewhere.

USFWS is authorized to collect permitting fees for lawful activities that involve protected species, including scientific research, conservation, and unintentional taking of the animals while performing permitted activities. Under H.R. 764, permits would no longer be required for activities involving gray wolves in the continental United States. Permitting fees are recorded in the budget as offsetting receipts (reductions in direct spending) and are available to be spent without further appropriation. Using information from USFWS, CBO estimates that enacting H.R. 764 would reduce those receipts and the consequent spending by an insignificant amount over the 2024–2033 period.

Violators of the ESA are subject to civil and criminal penalties, which are recorded as revenues and available for spending without further appropriation. Using information from USFWS, CBO estimates that any reductions in collections or associated spending would be insignificant because of the small number of related cases expected to occur over the 2024–2033 period.

Under current law, plaintiffs who challenge the federal government under the ESA may be entitled to the repayment of attorneys' fees. Such payments are made from the federal government's Judgment Fund, which has a permanent indefinite appropriation. CBO expects that by prohibiting judicial review, H.R. 764 could reduce the number of civil actions that otherwise would be filed and thus

the potential for payments from the fund. Based on the amount of such payments in the past, CBO estimates that any decrease in direct spending would be insignificant over the 2024–2033 period.

Finally, using information from USFWS, CBO estimates that the administrative costs to reissue the final rule under H.R. 764 would be insignificant; any spending would be subject to the availability of appropriated funds.

H.R. 764 would impose an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by eliminating a right of action for entities to seek judicial review of the administrative rule required by the bill. Because the rights of action precluded under the bill generally do not result in monetary damages, CBO estimates that the cost of the mandates would fall well below the intergovernmental and private-sector thresholds established in UMRA (\$99 million and \$198 million in 2023, respectively, adjusted annually for inflation).

The CBO staff contact for this estimate is Lilia Ledezma (for federal costs) and Brandon Lever (for mandates). The estimate was reviewed by Chad Chirico, Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to require the Secretary of the Interior to reissue regulations removing the gray wolf from the list of endangered and threatened wildlife under the Endangered Species Act of 1973.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office, H.R. 764 would impose an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act by eliminating a right of action for entities to seek judicial review of the administrative proceedings required by the bill. However, the Congressional Budget Office estimates that the cost of the mandates would fall well below the intergovernmental and private-sector thresholds established in the Unfunded Mandates Reform Act, which are \$99 million and \$198 million in 2023, respectively, adjusted annually for inflation.

EXISTING PROGRAMS

Directed Rule Making. This bill directs the Secretary of the Interior, an executive branch official, to reissue the final rule entitled “Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (*Canis lupus*) From the List of Endangered and Threatened Wildlife” and published on November 3, 2020 (85 Fed. Reg. 69778).

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

As reported by the Committee on Natural Resources, H.R. 764 makes no changes in existing law.

DISSENTING VIEWS

H.R. 764 would undermine science-based endangered species recovery by requiring the Secretary of the Interior to reissue a Trump-era Fish and Wildlife Service (FWS) rule de-listing the gray wolf in the lower 48 states under the Endangered Species Act (ESA).¹ The legislation ignores the established regulatory process for evaluating the population status and ensuring adequate conservation measures for the species after it is delisted, ignores tribal consultation, and prohibits judicial review of the rule.

The gray wolf is a native North American wolf species comprised of nearly 30 subspecies. Despite their cultural and environmental significance, wolves are often vilified as threats to livestock, driving farmers and ranchers to hunt them close to extinction before they were granted protections under the ESA. In 1974, FWS listed gray wolves as endangered throughout the lower 48 states, except for Minnesota, where they were listed as threatened.² In November 2020, the Trump administration finalized a decision to de-list the gray wolf in the lower 48 states, stating that the “best available scientific and commercial data available establish[es] that the gray wolf entities in the lower 48 United States do not meet the definitions of a threatened species or an endangered species under the [Endangered Species] Act.”³ This rule ended 45 years of ESA protections for gray wolves, despite strong disagreement from experts who noted that the wolf’s recovery hinged on continued protection.⁴

In February 2022, the U.S. District Court for the Northern District of California struck down the Trump-era de-listing. The court’s decision reinstated the threatened status for Minnesota wolves and the endangered status for wolves across 44 states. The Northern Rocky Mountain DPS did not receive protections from the court ruling because Congress de-listed it in 2011.⁵

H.R. 764 should be called “ignore the science” rather than “trust the science.” It undermines the scientific basis for listing and de-listing the gray wolf. It prohibits judicial review, which is the check on whether an agency has based its decision on the best available scientific and commercial data. Furthermore, the bill ignores tribal input and consultation. This bill would take a significant step backward in protecting gray wolves from extinction by legislatively de-

¹See ERIN H. WARD, CRS, R46184, THE GRAY WOLF UNDER THE ENDANGERED SPECIES ACT (ESA): A CASE STUDY IN LISTING AND DELISTING CHALLENGES (2020), <https://www.crs.gov/Reports/R46184>.

²ERIN H. WARD, CRS, LSB10697, U.S. DISTRICT COURT VACATES GRAY WOLF DELISTING RULE (2022), <https://www.crs.gov/Reports/LSB10697>.

³Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (*Canis lupus*) From the List of Endangered and Threatened Wildlife, 85 Fed. Reg. 69,778, 69,778 (Nov. 3, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-11-03/pdf/2020-24171.pdf>.

⁴See, e.g., *Gray Wolves Regain Federal Endangered Species Act Protections*, EARTHJUSTICE (Feb. 10, 2022), <https://earthjustice.org/press/2022/gray-wolves-regain-federal-endangered-species-act-protections>.

⁵See *id.*; WARD, *supra* note 2.

listing the species across its range without any scientific analysis of whether the wolf qualifies for de-listing based on population numbers, range, and threats to the existence of the species. Unfortunately, if Congress de-lists the species, states that allow for inhumane trapping, hunting, and other predator control measures aimed at wolves will lead recovery and management efforts.

We already know how those efforts will go. When the Trump administration de-listed the gray wolf in 2020, Idaho passed legislation allowing for 90% of their gray wolf population to be culled by nearly any means, including killing pups,⁶ and in Wisconsin, one hunting season wiped out over 30% of the state's gray wolf population.⁷ Montana allowed increased bag limits and hunting of wolves outside of National Parks.⁸ Idaho authorized bounties up to \$2,500 per gray wolf kill, and states authorized expanded killing methods, including the use of traps, snares, night-vision equipment, bait, and motor vehicles and dogs to track and kill.⁹

FWS is currently assessing the status of the gray wolf and whether delisting is warranted through a 12-month status review. This legislation cuts that thorough, science-based process short and undermines the successful work of wolf recovery.

RAÚL M. GRIJALVA,

Ranking Member, House Committee on Natural Resources.



⁶See, e.g., Bob D'Angelo, *Idaho Governor Signs Bill That Will Allow Killing of Up To 90% of State's Wolf Population*, KIRO7 (May 7, 2021, 4:18 pm PDT), <https://www.kiro7.com/news/trending/idaho-governor-signs-bill-that-will-allow-killing-up-90-states-wolf-population/NXTIGBZ4HFIFAETVNWZK5EQFY/>; see also Tess Joosse, *Wolf Populations Drop as More States Allow Hunting*, SCI. AM. (Sept. 7, 2021), <https://www.scientificamerican.com/article/wolf-populations-drop-as-more-states-allow-hunting/>.

⁷Adrian Treves, Francisco J. Santiago-Avila & Karann Putrevu, *Quantifying the Effects of Delisting Wolves after the First State Began Lethal Management*, PEERJ 9:e11666 (2021), <https://doi.org/10.7717/peerj.11666>.

⁸Tom Kuglin, *Judge Issues Immediate Temporary Changes to Montana's Wolf Hunting, Trapping Seasons*, INDEP. REC. (Nov. 16, 2022), https://helenair.com/news/state-and-regional/govt-and-politics/judge-issues-immediate-temporary-changes-to-montanas-wolf-hunting-trapping-seasons/article_4ebc04b2_9efb-5b86-b659-0ce96bbfaa9f.html.

⁹Keith Ridler, *Idaho Reaches Deal to Reimburse Hunters who Kill Wolves*, AP (Oct. 11, 2021), <https://apnews.com/article/science-business-lifestyle-wolves-environment-d90402905576067da4726068e8ebd563>.