

## 1 SENATE BILL NO. 414

2 INTRODUCED BY C. VINCENT, J. PRIEST, R. ARTHUN, J. ESSMANN, D. KENNEDY, J. SONJU, B. LAKE,  
3 D. STEINBEISSER, E. BUTTREY, L. JONES, A. OLSON, F. MOORE, R. RIPLEY, T. BROWN, V. JACKSON,  
4 S. AUGARE, C. MOWBRAY, T. MURPHY, B. TUTVEDT, R. HUTTON, D. LEWIS, E. WALKER, M. CUFFE,  
5 G. HINKLE, J. BALYEAT, J. BRENDEN, R. ZINKE, B. HAMLETT, J. PETERSON, DE. BARRETT, C. SMITH,  
6 G. BENNETT

7  
8 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE WOLF POLICY; CREATING THE MONTANA  
9 WOLF CONTROL ACT; PROVIDING LEGISLATIVE FINDINGS; ASSERTING STATE RIGHTS; ESTABLISHING  
10 WOLF MANAGEMENT PROCEDURES BEFORE AND AFTER DELISTING; LIMITING SETTLEMENT  
11 NEGOTIATIONS; ~~REQUIRING THE ATTORNEY GENERAL TO PURSUE LITIGATION FOR DAMAGES~~  
12 ~~RESULTING FROM WOLF PREDATION~~; AMENDING SECTIONS 87-2-523, 87-2-524, AND 87-5-131, MCA;  
13 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
14

15 WHEREAS, the gray wolf in the continental United States has been protected under the federal  
16 Endangered Species Act, despite plentiful numbers of wolves in Alaska and Canada; and

17 WHEREAS, because of that protection, gray wolves have been reintroduced in Montana and have  
18 become reestablished in this state; and

19 WHEREAS, in 2002, the gray wolf population in Montana, Idaho, and Wyoming achieved the biological  
20 requirement of a minimum of 30 breeding pairs and at least 300 wolves in a metapopulation in the Northern  
21 Rocky Mountains, a threshold established by the United States Fish and Wildlife Service to conclude that the gray  
22 wolf is recovered and should be delisted; and

23 WHEREAS, Montana's wolf population has remained on the rise with an estimated minimum of 35  
24 breeding pairs and 566 wolves at the end of 2010, a 7.4% increase over 2009; and

25 WHEREAS, this population estimate is only a minimum and the number of wolves believed to be in  
26 Montana is far greater;

27 WHEREAS, the United States Fish and Wildlife Service has delisted the gray wolf in Montana twice (on  
28 March 28, 2008, and on May 4, 2009), and despite proven, effective state management, including use of a public  
29 hunt, the species has been relisted both times by court ruling; and

30 WHEREAS, the Montana Department of Fish, Wildlife, and Parks (MDFWP) has joined the appeal of the

1 most recent court ruling; and

2 WHEREAS, the 62nd Legislature fully supports that appeal but recognizes that even if the appeal is  
3 successful and the gray wolf is delisted in Montana, history has shown that certain organizations are likely to  
4 continue challenging the delisting and state management of the gray wolf in court; and

5 WHEREAS, in the meantime, unchecked predation by wolves is devastating ungulate populations in  
6 Montana, undoing decades of conservation of moose, deer, and elk; and

7 WHEREAS, this has resulted in reduced hunting opportunities for Montanans, impacting our longstanding  
8 hunting heritage and culture; and

9 WHEREAS, wolf predation is having an unacceptable impact on livestock production in Montana; and

10 WHEREAS, 782 livestock animals were confirmed to have been killed by wolves between 2008 and 2010,  
11 but the actual number of livestock believed to have been killed by wolves is as much as seven times higher; and

12 WHEREAS, these negative impacts on ungulates, hunting, and livestock production will have a profound  
13 economic consequence for people and communities in Montana; and

14 WHEREAS, Governor Brian Schweitzer has directed state game wardens not to investigate or cite any  
15 livestock producers who kill or harass a wolf attacking their livestock; and

16 WHEREAS, Governor Schweitzer has directed the MDFWP to respond to any livestock depredation by  
17 removing whole wolf packs that kill livestock wherever it may occur; and

18 WHEREAS, Governor Schweitzer has directed the MDFWP to cull wolves in the Bitterroot Valley by  
19 removing whole packs to the extent allowed by the Endangered Species Act in order to protect elk herds in that  
20 area and enable them to recover.

21

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23

24 NEW SECTION. **Section 1. Short title.** [Sections 1 through 5] may be cited as the "Montana Wolf  
25 Control Act".

26

27 NEW SECTION. **Section 2. Legislative findings.** The legislature finds that:

28 (1) since the formation of the United States, the regulation of wildlife within state borders has been an  
29 exclusive and traditional state function and a proper exercise of retained state police power;

30 (2) it is within the people's rights and the state's power under the 9th and 10th amendments to the United

1 States constitution to manage wildlife within state borders in the manner most appropriate to benefit the people  
2 of Montana;

3 (3) the United States has not dealt with Montana in good faith concerning the reintroduction of wolves  
4 in Montana;

5 (4) multiple promises by federal officials regarding deadlines for wolf delisting and the shift of full wolf  
6 management and control to Montana have passed with no effective delisting or shifting of full management  
7 authority;

8 (5) wolves have had and are having an unacceptable negative impact on game herds, hunting  
9 opportunities, livestock production, the health and safety of people engaged in outdoor work and recreation in  
10 Montana, and the Montana economy; and

11 (6) the United States is responsible for injuries caused by federally released wolves in Montana,  
12 including but not limited to the loss of game animals, livestock, or pets, other injuries to animals, injuries to  
13 persons working or recreating in the state, and economic injuries to the people of the state.

14

15 **NEW SECTION. Section 3. Purpose.** The purpose of [sections 1 through 5] is to:

16 (1) prevent the decline of wild game animal populations in Montana because of wolf predation and  
17 preserve the heritage of harvesting those game animals for Montanans pursuant to Article IX, section 7, of the  
18 Montana constitution;

19 (2) protect the stockgrowers of Montana from economic loss because of wolf predation;

20 (3) provide for the health and safety of people working outdoors or engaged in outdoor recreation; and

21 (4) assert the rights of Montana pursuant to the 9th and 10th amendments to the United States  
22 constitution and Article I of the Montana constitution.

23

24 **NEW SECTION. Section 4. Gray wolf management -- reporting.** (1) At any time that the gray wolf  
25 is included on the federal list of endangered or threatened wildlife:

26 (a) a game warden may not investigate or cite any person who kills or harasses a wolf; and

27 (b) subject to the provisions of 87-1-217(4), the department shall MAY use lethal action to remove entire  
28 wolf packs in response to:

29 (i) any depredation of livestock; and

30 (ii) depredation of elk that results in the reduction of an elk herd below 80% of the 10-year average of the

1 herd's population objective.

2 (2) Upon a determination made pursuant to 87-5-131 that the gray wolf is a species that can be managed  
3 and protected as a game animal, the commission shall establish a wolf hunting season that allows the taking of  
4 a wolf with the purchase of a Class E-1 or Class E-2 wolf license, except that a landowner or the landowner's  
5 agent may take a wolf on the landowner's property at any time without a license. Public land permittees who have  
6 experienced livestock depredation must still obtain a special kill permit authorized in 87-5-131(3)(b) to take a wolf  
7 on public land without the purchase of a Class E-1 or Class E-2 license.

8 (3) Based on population monitoring conducted pursuant to subsection (4), the department may issue a  
9 moratorium on the unlicensed taking of wolves by landowners and their agents pursuant to subsection (2) if the  
10 ~~state STATE'S POPULATION MANAGEMENT~~ objective of ~~15 breeding pairs is not met. Once the state objective is met~~  
11 ~~IS THREATENED IN A MANNER THAT WOULD CAUSE THE GRAY WOLF TO BE LISTED UNDER 87-5-107 OR UNDER THE~~  
12 ~~FEDERAL ENDANGERED SPECIES ACT. WHEN THE POPULATION MANAGEMENT OBJECTIVE IS NO LONGER THREATENED,~~  
13 the department shall lift the moratorium.

14 (4) The department shall develop and implement methods of wildlife population monitoring to most  
15 accurately monitor wolf, moose, elk, and deer populations and the effect of wolf depredation on moose, elk, and  
16 deer populations. This includes the use of collars pursuant to 87-5-132 to monitor wolves and any other activities  
17 necessary to achieve the most accurate population data possible for wolf, moose, elk, and deer.

18 (5) The department shall report annually to the environmental quality council regarding the  
19 implementation of this section.

20  
21 NEW SECTION. Section 5. Litigation -- duty of attorney general. (1) The department may not  
22 negotiate settlement terms with any party that files litigation in opposition to the removal of the gray wolf from the  
23 federal endangered or threatened species list or that would result in the inclusion of the gray wolf on the federal  
24 endangered or threatened species list.

25 (2) ~~(a) Within available resources, the attorney general shall file and pursue claims against the United~~  
26 ~~States for damages resulting from wolf predation, including:~~

27 ~~—— (i) economic losses;~~

28 ~~—— (ii) loss of big game animals;~~

29 ~~—— (iii) loss of livestock and pets; and~~

30 ~~—— (iv) personal injury inflicted by a wolf on any person in Montana.~~

1 ~~\_\_\_\_\_ (b) The attorney general may contract for private services for the purposes of this section.~~

2 ~~\_\_\_\_\_ (c) Claims must be filed in the United States court of federal claims.~~

3

4 **Section 6.** Section 87-2-523, MCA, is amended to read:

5 **"87-2-523. Class E-1--resident wolf license.** Except as otherwise provided in this chapter, a person  
6 who is a resident, as defined in 87-2-102, and who is 12 years of age or older or who will turn 12 years old before  
7 or during the season for which the license is issued, upon payment of a fee of \$19, may receive a Class E-1  
8 license that entitles a holder who is 12 years of age or older to hunt a wolf and possess the carcass of the wolf  
9 as authorized by [section 4] and commission rules."

10

11 **Section 7.** Section 87-2-524, MCA, is amended to read:

12 **"87-2-524. Class E-2--nonresident wolf license.** Except as otherwise provided in this chapter, a person  
13 who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old  
14 before or during the season for which the license is issued, upon payment of a fee of \$350, may receive a Class  
15 E-2 license that entitles a holder who is 12 years of age or older to hunt a wolf and possess the carcass of the  
16 wolf as authorized by [section 4] and commission rules."

17

18 **Section 8.** Section 87-5-131, MCA, is amended to read:

19 **"87-5-131. Process for delisting of gray wolf --management following delisting.** (1) If the United  
20 States fish and wildlife service removes the Northern Rocky Mountain or gray wolf from the United States' list of  
21 endangered or threatened wildlife, the department is authorized to remove the wolf from the state list of  
22 endangered species upon a determination by the department pursuant to this part that the wolf is no longer  
23 endangered.

24 (2) Following state delisting of the wolf, the department shall manage the wolf as a species in need of  
25 management until the department and the commission determine that the wolf no longer needs protection as a  
26 species in need of management and can be managed and protected as a game animal. Upon making that  
27 determination, the commission may declare the wolf a big game animal ~~or a furbearer~~ and may regulate the  
28 taking of a wolf ~~as a big game animal or furbearer~~ in accordance with [section 4].

29 (3) (a) Following state delisting of the wolf, the department; or the department of livestock, pursuant to  
30 81-7-102 and 81-7-103, may control wolves for the protection and safeguarding of livestock if the control action

1 is consistent with a wolf management plan approved by both the department and the department of livestock.

2 (b) Any wolf management plan approved by the department and the department of livestock must allow  
3 the issuance of special kill permits, also known as shoot-on-sight written take authorizations, by the department  
4 to landowners or public land permittees who have experienced livestock depredation."

5  
6 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through 5] are intended to be codified  
7 as an integral part of Title 87, chapter 5, and the provisions of Title 87, chapter 5, apply to [sections 1 through 5].

8  
9 **NEW SECTION. Section 10. Severability.** If a part of [this act] is invalid, all valid parts that are  
10 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
11 the part remains in effect in all valid applications that are severable from the invalid applications.

12  
13 **NEW SECTION. Section 11. Effective date.** [This act] is effective on passage and approval.

14 - END -