

116TH CONGRESS
1ST SESSION

S. 2453

To assist in the conservation of the North Atlantic right whale by supporting and providing financial resources for North Atlantic right whale conservation programs and projects of persons with expertise required for the conservation of North Atlantic right whales, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2019

Mr. BOOKER (for himself, Mr. ISAKSON, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To assist in the conservation of the North Atlantic right whale by supporting and providing financial resources for North Atlantic right whale conservation programs and projects of persons with expertise required for the conservation of North Atlantic right whales, and for other purposes.

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 “Scientific Assistance
5 for Very Endangered North Atlantic Right Whales Act of
6 2019” or the “SAVE Right Whales Act”.

1 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds that—

3 (1) North Atlantic right whales (*Eubalaena*
4 *glacialis*) are critically endangered, with approxi-
5 mately 400 whales remaining at the time of the in-
6 troduction of this Act;

7 (2) historically, the North Atlantic right whale
8 population was decimated by the whaling industry,
9 although the whale population received protections
10 from such industry in the 1930s;

11 (3) despite a modest recovery prior to 2010, the
12 North Atlantic right whale is one of the most endan-
13 gered whales in the world and has experienced a sig-
14 nificant decline since 2010;

15 (4) the North Atlantic right whale has been
16 listed as an endangered species under the Endan-
17 gered Species Conservation Act of 1969 (Public Law
18 89–669; 80 Stat. 926) and its successor the Endan-
19 gered Species Act of 1973 (16 U.S.C. 1531 et seq.)
20 since 1970 and is designated as depleted under the
21 Marine Mammal Protection Act of 1972 (16 U.S.C.
22 1361 et seq.);

23 (5) because North Atlantic right whales are
24 long-lived and highly migratory, and at present rates
25 females give birth to a single calf only once every 4

1 to 10 years, they are highly vulnerable to the im-
2 pacts of human activity and habitat degradation;

3 (6) North Atlantic right whales frequently cross
4 paths with major shipping lanes and fishing
5 grounds, leaving the whales particularly vulnerable
6 to vessel collisions and fishing gear entanglements,
7 the 2 leading causes of injury and death to the spe-
8 cies;

9 (7) even when North Atlantic right whales do
10 not die as a result of fishing gear entanglement,
11 those whales can still experience significant sub-le-
12 thal effects such as chronic stress and reproductive
13 failure;

14 (8) in August 2017, the National Marine Fish-
15 eries Service announced an unusual mortality event
16 involving North Atlantic right whales in 2017, with
17 17 known whale deaths that year alone;

18 (9) as of August 2019, such ongoing unusual
19 mortality event includes the loss of at least 28
20 whales, a significant die-off of a population and,
21 under the Marine Mammal Protection Act of 1972
22 (16 U.S.C. 1361 et seq.), demands an immediate re-
23 sponse;

24 (10) based on the current rate of mortality of
25 North Atlantic right whales, and because of the

1 small number of breeding females in the population
2 and low birth rates, recent analysis suggests the spe-
3 cies will lose its ability to recover in merely a few
4 decades if human-caused mortality is not reduced
5 immediately;

6 (11) under the Marine Mammal Protection Act
7 of 1972 (16 U.S.C. 1361 et seq.), United States
8 fishermen in certain locations have been required to
9 modify their fishing gear and behavior to minimize
10 the likelihood of entanglements, including by using
11 sinking groundlines, having weak links in buoy lines,
12 using multiple traps per buoy, appropriately mark-
13 ing fishing gear, and complying with seasonal area-
14 specific closures in North Atlantic right whale habi-
15 tats;

16 (12) vessels in United States waters that are 65
17 feet or more in length have been required to comply
18 with a seasonal 10-knot speed limit in certain loca-
19 tions to reduce the threat of vessel collisions; and

20 (13) North Atlantic right whales are now mi-
21 grating farther north into Canadian waters and
22 there have been at least 20 North Atlantic right
23 whale deaths in Canada's Gulf of St. Lawrence be-
24 tween 2017 and 2019, as well as 8 documented

1 deaths of such whales in the United States waters
2 in 2017 and 2018.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

5 (1) the Governments of the United States and
6 Canada must work together to reduce lethal and
7 sub-lethal effects of human activities on North At-
8 lantic right whales; and

9 (2) effectively addressing the threats to the
10 long-term viability of the North Atlantic right
11 whales will require a joint commitment and effort
12 from government entities, local communities, marine
13 scientists and conservationists, fishermen, owners
14 and operators of passenger vessels and others in the
15 shipping industry, and other stakeholders.

16 **SEC. 3. PURPOSES.**

17 The purposes of this Act are the following:

18 (1) To rebuild healthy populations of the North
19 Atlantic right whale.

20 (2) To assist in the conservation and protection
21 of North Atlantic right whales by supporting North
22 Atlantic right whale conservation programs that
23 minimize conflicts between North Atlantic right
24 whales and human activities.

1 (3) To provide financial resources for those pro-
 2 grams.

3 **TITLE I—NORTH ATLANTIC**
 4 **RIGHT WHALE CONSERVATION**

5 **SEC. 101. NORTH ATLANTIC RIGHT WHALE CONSERVATION**
 6 **ASSISTANCE.**

7 (a) ASSISTANCE.—

8 (1) IN GENERAL.—Subject to the availability of
 9 funds and in consultation with other Federal offi-
 10 cials, the Secretary of Commerce (in this title re-
 11 ferred to as the “Secretary”) shall provide competi-
 12 tive financial assistance, including multiyear grants,
 13 for projects for the conservation of North Atlantic
 14 right whales for which project proposals are ap-
 15 proved by the Secretary in accordance with this sec-
 16 tion.

17 (2) USE OF EXISTING AUTHORITIES.—Assist-
 18 ance provided under this section shall be carried out
 19 in a manner consistent with authorities available to
 20 the Secretary under the Endangered Species Act of
 21 1973 (16 U.S.C. 1531 et seq.) and the Marine
 22 Mammal Protection Act of 1972 (16 U.S.C. 1361 et
 23 seq.).

24 (b) PROJECT PROPOSALS.—

1 (1) ELIGIBLE APPLICANTS.—A project proposal
2 may be submitted to the Secretary under this section
3 by—

4 (A) relevant State and tribal agencies, re-
5 search institutions, and nonprofit organizations
6 with expertise required for the conservation of
7 North Atlantic right whales; and

8 (B) any other individual or entity, as de-
9 termined appropriate by the Secretary, with the
10 expertise required for the conservation of North
11 Atlantic right whales, including large whale
12 disentanglement teams approved by the Na-
13 tional Oceanic and Atmospheric Administration
14 and members in good standing of the National
15 Marine Mammal Health and Stranding Re-
16 sponse Program, sectors of the shipping and
17 fishing industries, fishing gear manufacturers,
18 and rope manufacturers.

19 (2) FEDERAL PARTNERSHIP OPPORTUNITIES.—
20 A Federal agency may not be a lead entity or receive
21 funding for a project under this section, but may be
22 included as a partner or collaborator on a project
23 that receives such funding.

24 (3) REQUIRED ELEMENTS.—A project proposal
25 shall include—

1 (A) a statement of the purposes of the
2 project;

3 (B) the name of the entity or individual
4 with overall responsibility for the project;

5 (C) a description of the qualifications of
6 the entity or individuals that will conduct the
7 project;

8 (D) a description of—

9 (i) methods for project implementa-
10 tion and outcome assessment;

11 (ii) staffing and stakeholder engage-
12 ment for the project;

13 (iii) the logistics of the project;

14 (iv) an estimated timeline for the
15 project; and

16 (v) anticipated outcomes of the
17 project;

18 (E) a proposed budget for the funds and
19 time required to complete the project;

20 (F) information regarding the source and
21 amount of matching funding available for the
22 project;

23 (G) information that demonstrates the
24 clear potential of the project to contribute to

1 the conservation of North Atlantic right whales;
2 and

3 (H) any other information that the Sec-
4 retary considers to be necessary for evaluating
5 the eligibility of the project for funding under
6 this Act.

7 (c) ANNUAL GRANT PROJECT PROPOSAL SOLICITA-
8 TION, REVIEW, AND APPROVAL.—

9 (1) IN GENERAL.—The Secretary shall annu-
10 ally—

11 (A) solicit project proposals for grants
12 under this section;

13 (B) provide to other Federal officials, as
14 appropriate, copies of each proposal submitted
15 in response to the solicitation; and

16 (C) review each such proposal on a time-
17 line that recognizes the urgency of the declining
18 North Atlantic right whale population to deter-
19 mine whether the proposal meets the criteria
20 specified in subsection (d).

21 (2) CONSULTATION; APPROVAL OR DIS-
22 APPROVAL.—Subject to the availability of funds, the
23 Secretary shall, with respect to each project proposal
24 submitted under this section, and after consulting
25 with other Federal officials, as appropriate—

1 (A) consult with respect to the proposal
2 with the government of each State and foreign
3 country in which the project is to be conducted;

4 (B) after taking into consideration any
5 comments resulting from the consultation and
6 any potential losses that could be incurred to
7 the fishing industry as a result of the proposal,
8 approve or disapprove the proposal; and

9 (C) provide written notification of the ap-
10 proval or disapproval to the individual or entity
11 that submitted the proposal, other Federal offi-
12 cials, and each State and foreign country de-
13 scribed in subparagraph (A).

14 (d) CRITERIA FOR APPROVAL.—The Secretary may
15 approve a project proposal under this section if the project
16 shows promise for contributing to recovering and sus-
17 taining a viable population of North Atlantic right whales
18 in the wild by assisting efforts to—

19 (1) implement conservation programs;

20 (2) address the unintentional conflicts between
21 humans and North Atlantic right whales through de-
22 velopment, testing, and use of innovative technology
23 or other methods to reduce the lethal and sub-lethal
24 effects on North Atlantic right whales from vessel
25 collisions and fishing gear entanglements;

1 (3) promote cooperative projects on such topics
2 with foreign governments; or

3 (4) promote cooperative projects on such topics
4 with affected local communities, small businesses
5 such as fishermen, others in the private sector, or
6 nongovernmental organizations.

7 (e) PRIORITY.—To the extent practicable, in deter-
8 mining whether to approve project proposals under this
9 section, the Secretary shall prioritize projects that are de-
10 signed to reduce the lethal and sub-lethal effects of human
11 activities on North Atlantic right whales. In prioritizing
12 such projects, the Secretary shall prioritize, among such
13 projects, projects that are cooperative in nature and in-
14 clude fishing or shipping sector participants.

15 (f) MATCHING REQUIREMENT.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (3), the non-Federal share of the costs of an
18 activity conducted with financial assistance under
19 this section shall be 25 percent of such costs.

20 (2) IN-KIND CONTRIBUTIONS.—The Secretary
21 may apply to the non-Federal share of an activity
22 conducted with financial assistance under this sec-
23 tion the amount of funds, and the fair market value
24 of property and services, provided by non-Federal
25 sources and used for the activity.

1 (3) WAIVER OF REQUIREMENTS.—The Sec-
 2 retary may waive the application of paragraph (1) if
 3 the Secretary finds that such waiver is necessary to
 4 support a conservation project that the Secretary
 5 has identified as of high priority.

6 (g) PROJECT REPORTING.—

7 (1) IN GENERAL.—Each individual or entity
 8 that receives assistance under this section for a
 9 project shall submit to the Secretary periodic reports
 10 (at such intervals as the Secretary may require) that
 11 include all information that the Secretary, after con-
 12 sultation with other government officials, determines
 13 is necessary to evaluate the progress and success of
 14 the project for the purposes of ensuring positive re-
 15 sults, assessing problems, and fostering improve-
 16 ments.

17 (2) AVAILABILITY TO THE PUBLIC.—Reports
 18 under paragraph (1), and any other documents re-
 19 lating to projects for which financial assistance is
 20 provided under this Act, shall be made available to
 21 the public in a timely manner.

22 **SEC. 102. NORTH ATLANTIC RIGHT WHALE INTERAGENCY**
 23 **BUDGET.**

24 (a) IN GENERAL.—The Director of the Office of
 25 Management and Budget shall include, in the budget of

1 the President submitted to Congress under section
 2 1105(a) of title 31, United States Code, for fiscal year
 3 2021 and each fiscal year thereafter, an interagency budg-
 4 et that displays for each Federal agency that engages in
 5 North Atlantic right whale activities—

6 (1) the amount of appropriations and expendi-
 7 tures for the preceding fiscal year for such activities
 8 and a description of such activities;

9 (2) the estimated amount to be expended dur-
 10 ing the current fiscal year for such activities and a
 11 description of such activities; and

12 (3) the amount estimated to be necessary for
 13 the next fiscal year for such activities and a descrip-
 14 tion of such activities.

15 (b) NORTH ATLANTIC RIGHT WHALE ACTIVITIES
 16 DEFINED.—In this section, the term “North Atlantic
 17 right whale activities” means any activity of a Federal
 18 agency to study, observe, monitor, manage, protect, con-
 19 serve, or restore the North Atlantic right whale population
 20 through direct or indirect means, including through the
 21 provision of competitive financial assistance to non-Fed-
 22 eral entities.

23 **SEC. 103. REPORT TO CONGRESS.**

24 Not later than 2 years after the date of the enact-
 25 ment of this Act, and annually thereafter, the Secretary

1 shall submit to Congress a report on the results and effec-
2 tiveness of projects receiving assistance provided under
3 this title, including recommendations concerning how this
4 title might be improved and whether funding for this title
5 should be continued in the future.

6 **SEC. 104. FUNDING.**

7 (a) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) AUTHORIZATION.—There is authorized to
9 be appropriated to the Secretary to carry out this
10 title \$5,000,000 for each of fiscal years 2019
11 through 2029.

12 (2) ADMINISTRATIVE EXPENSES.—Of the
13 amounts authorized to be appropriated under this
14 subsection for a fiscal year, the Secretary may ex-
15 pend not more than 5 percent, or up to \$80,000,
16 whichever is greater, to pay the administrative ex-
17 penses necessary to carry out this Act.

18 (3) SUPPLEMENT NOT SUPPLANT.—The
19 amount authorized to be appropriated by paragraph
20 (1) shall supplement and not supplant other
21 amounts available to the Secretary.

22 (b) ACCEPTANCE AND USE OF DONATIONS.—The
23 Secretary may accept, receive, solicit, hold, administer,
24 and use any gift, devise, or bequest to provide assistance
25 under section 102.

TITLE II—CONTINUOUS PLANKTON RECORDER

SEC. 201. SURVEY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and on an ongoing basis thereafter, the Secretary of Commerce shall conduct a continuous plankton recorder survey.

(b) REQUIRED ELEMENTS.—For the purpose of conducting the survey required under subsection (a), the Northeast Fisheries Science Center shall—

(1) to the extent possible, utilize the resources of and partner with, on a volunteer basis, research institutions, nonprofit organizations, commercial vessels, and other Federal agencies;

(2) in as short a time as possible, ensure relevant survey samples and results are analyzed, stored, archived, and made publicly available;

(3) prioritize the collection of plankton samples and data that inform the conservation of North Atlantic right whales; and

(4) to the extent practicable, coordinate with the Government of Canada to develop a transboundary understanding of plankton abundance and distribution.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—To carry
2 out this section there is authorized to be appropriated to
3 the Secretary of Commerce \$300,000 for each of fiscal
4 years 2019 through 2029.

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