

115TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

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.

---

IN THE SENATE OF THE UNITED STATES

---

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

---

**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.

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 2018” 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 fewer than  
5 450 whales remaining;

6 (2) historically, the North Atlantic right whale  
7 population was decimated by the whaling industry;

8 (3) despite protection from whaling beginning  
9 in the 1930s, the North Atlantic right whale is one  
10 of the most endangered whales in the world and has  
11 experienced a significant decline since 2010;

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

20 (5) because North Atlantic right whales are  
21 long-lived and highly migratory, and at present rates  
22 females give birth to only a single calf once every 4  
23 to 10 years, they are highly vulnerable to the im-  
24 pacts of human activity and habitat degradation;

25 (6) North Atlantic right whales frequently cross  
26 paths with major shipping lanes and fishing

1 grounds, leaving the whales particularly vulnerable  
2 to vessel collisions and fishing gear entanglements,  
3 the 2 leading causes of injury and death to the spe-  
4 cies;

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

10 (8) in August 2017, the National Marine Fish-  
11 eries Service announced an Unusual Mortality Event  
12 involving North Atlantic right whales in 2017, with  
13 17 known whale deaths that year alone;

14 (9) an Unusual Mortality Event involves a sig-  
15 nificant die-off of a population and, according to the  
16 Marine Mammal Protection Act of 1972 (16 U.S.C.  
17 1361 et seq.), demands an immediate response;

18 (10) no North Atlantic right whale calves were  
19 observed during the 2017–2018 calving season off  
20 the southeastern coast of the United States;

21 (11) based on the current rate of mortality of  
22 North Atlantic right whales, and because of the  
23 small number of breeding females in the population  
24 and low birth rates, recent analysis suggests the spe-  
25 cies will lose its ability to recover in less than 20

1 years if human-caused mortality is not reduced im-  
2 mediately;

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

12 (13) vessels that are 65 feet or longer have  
13 been required to comply with a 10-knot speed limit  
14 in certain locations during North Atlantic right  
15 whale migrations to reduce the threat of vessel colli-  
16 sions; and

17 (14) North Atlantic right whales are migrating  
18 farther north into Canadian waters and in 2017  
19 there were at least 12 North Atlantic right whale  
20 deaths in Canada's Gulf of St. Lawrence, in addition  
21 to the 6 documented deaths in United States waters  
22 in 2017 and 2018.

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



1           (1) IN GENERAL.—Subject to the availability of  
2 funds and in consultation with other Federal offi-  
3 cials, the Secretary of Commerce (in this Act re-  
4 ferred to as the “Secretary”) shall provide competi-  
5 tive financial assistance, including multiyear grants,  
6 for projects for the conservation of North Atlantic  
7 right whales for which project proposals are ap-  
8 proved by the Secretary in accordance with this sec-  
9 tion.

10           (2) USE OF EXISTING AUTHORITIES.—Assist-  
11 ance provided under this section shall be carried out  
12 in a manner consistent with authorities available to  
13 the Secretary under the Endangered Species Act of  
14 1973 (16 U.S.C. 1531 et seq.) and the Marine  
15 Mammal Protection Act of 1972 (16 U.S.C. 1361 et  
16 seq.).

17           (b) PROJECT PROPOSALS.—

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

21           (A) relevant State and tribal agencies, re-  
22 search institutions, and nonprofit organizations  
23 with expertise required for the conservation of  
24 North Atlantic right whales; and

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

12          (2) FEDERAL PARTNERSHIP OPPORTUNITIES.—  
13          A Federal agency may not be a lead entity or receive  
14          funding for a project under this section, but may be  
15          included as a partner or collaborator on a project  
16          that receives such funding.

17          (3) REQUIRED ELEMENTS.—A project proposal  
18          shall include—

19                 (A) a statement of the purposes of the  
20                 project;

21                 (B) the name of the entity or individual  
22                 with overall responsibility for the project;

23                 (C) a description of the qualifications of  
24                 the entity or individuals that will conduct the  
25                 project;

- 1 (D) a description of—
- 2 (i) methods for project implementa-
- 3 tion and outcome assessment;
- 4 (ii) staffing and stakeholder engage-
- 5 ment for the project;
- 6 (iii) the logistics of the project;
- 7 (iv) an estimated timeline for the
- 8 project; and
- 9 (v) anticipated outcomes of the
- 10 project;
- 11 (E) a proposed budget for the funds and
- 12 time required to complete the project;
- 13 (F) information regarding the source and
- 14 amount of matching funding available for the
- 15 project;
- 16 (G) information that demonstrates the
- 17 clear potential of the project to contribute to
- 18 the conservation of North Atlantic right whales;
- 19 and
- 20 (H) any other information that the Sec-
- 21 retary considers to be necessary for evaluating
- 22 the eligibility of the project for funding under
- 23 this Act.

24 (c) ANNUAL GRANT PROJECT PROPOSAL SOLICITA-

25 TION, REVIEW, AND APPROVAL.—



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

3           (A) solicit project proposals for grants  
4 under this section;

5           (B) provide to other Federal officials, as  
6 appropriate, copies of each proposal submitted  
7 in response to the solicitation; and

8           (C) review each such proposal on a  
9 timeline that recognizes the urgency of the de-  
10 clining North Atlantic right whale population to  
11 determine whether the proposal meets the cri-  
12 teria specified in subsection (d).

13           (2) CONSULTATION; APPROVAL OR DIS-  
14 APPROVAL.—Subject to the availability of funds, the  
15 Secretary shall, with respect to each project proposal  
16 submitted under this section, and after consulting  
17 with other Federal officials, as appropriate—

18           (A) consult with respect to the proposal  
19 with the government of each State and foreign  
20 country in which the project is to be conducted;

21           (B) after taking into consideration any  
22 comments resulting from the consultation and  
23 any potential losses that could be incurred to  
24 the fishing industry as a result of the proposal,  
25 approve or disapprove the proposal; and

1           (C) provide written notification of the ap-  
2           proval or disapproval to the individual or entity  
3           that submitted the proposal, other Federal offi-  
4           cials, and each State and foreign country de-  
5           scribed in subparagraph (A).

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

11           (1) implement conservation programs;

12           (2) address the unintentional conflicts between  
13          humans and North Atlantic right whales through de-  
14          velopment, testing, and use of innovative technology  
15          or other methods to reduce the lethal and sub-lethal  
16          effects on North Atlantic right whales from vessel  
17          collisions and fishing gear entanglements;

18           (3) promote cooperative projects on such topics  
19          with foreign governments; or

20           (4) promote cooperative projects on such topics  
21          with affected local communities, small businesses  
22          such as fishermen, others in the private sector, or  
23          nongovernmental organizations.

24           (e) PRIORITY.—To the extent practicable, in deter-  
25          mining whether to approve project proposals under this

1 section, the Secretary shall prioritize projects that are de-  
2 signed to reduce the lethal and sub-lethal effects of human  
3 activities on North Atlantic right whales. In prioritizing  
4 such projects, the Secretary shall prioritize, among such  
5 projects, projects that are cooperative in nature and in-  
6 clude fishing or shipping sector participants.

7 (f) MATCHING REQUIREMENT.—

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

12 (2) IN-KIND CONTRIBUTIONS.—The Secretary  
13 may apply to the non-Federal share of an activity  
14 conducted with financial assistance under this sec-  
15 tion the amount of funds, and the fair market value  
16 of property and services, provided by non-Federal  
17 sources and used for the activity.

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

23 (g) PROJECT REPORTING.—

24 (1) IN GENERAL.—Each individual or entity  
25 that receives assistance under this section for a

1 project shall submit to the Secretary periodic reports  
2 (at such intervals as the Secretary may require) that  
3 include all information that the Secretary, after con-  
4 sultation with other government officials, determines  
5 is necessary to evaluate the progress and success of  
6 the project for the purposes of ensuring positive re-  
7 sults, assessing problems, and fostering improve-  
8 ments.

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

14 **SEC. 5. NORTH ATLANTIC RIGHT WHALE INTERAGENCY**  
15 **BUDGET.**

16 (a) IN GENERAL.—The Director of the Office of  
17 Management and Budget shall include, in the budget of  
18 the President submitted to Congress under section  
19 1105(a) of title 31, United States Code, for fiscal year  
20 2020 and each fiscal year thereafter, an interagency budg-  
21 et that displays for each Federal agency that engages in  
22 North Atlantic right whale activities—

23 (1) the amount of appropriations and expendi-  
24 tures for the preceding fiscal year for such activities  
25 and a description of such activities;

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

4           (3) the amount estimated to be necessary for  
5           the next fiscal year for such activities and a descrip-  
6           tion of such activities.

7           (b) NORTH ATLANTIC RIGHT WHALE ACTIVITIES  
8           DEFINED.—In this section, the term “North Atlantic  
9           right whale activities” means any activity of a Federal  
10          agency to study, observe, monitor, manage, protect, con-  
11          serve, or restore the North Atlantic right whale population  
12          through direct or indirect means, including through the  
13          provision of competitive financial assistance to non-Fed-  
14          eral entities.

15          **SEC. 6. REPORT TO CONGRESS.**

16          Not later than 2 years after the date of the enact-  
17          ment of this Act, and annually thereafter, the Secretary  
18          shall submit to Congress a report on the results and effec-  
19          tiveness of projects receiving assistance provided under  
20          this Act, including recommendations concerning how this  
21          Act might be improved and whether funding for this Act  
22          should be continued in the future.

23          **SEC. 7. FUNDING.**

24          (a) AUTHORIZATION OF APPROPRIATIONS.—

1           (1) AUTHORIZATION.—There is authorized to  
2 be appropriated to the Secretary to carry out this  
3 Act \$5,000,000 for each of fiscal years 2018  
4 through 2028.

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

11          (3) SUPPLEMENT NOT SUPPLANT.—The  
12 amount authorized to be appropriated by paragraph  
13 (1) shall supplement and not supplant other  
14 amounts available to the Secretary.

15          (b) ACCEPTANCE AND USE OF DONATIONS.—The  
16 Secretary may accept, receive, solicit, hold, administer,  
17 and use any gift, devise, or bequest to provide assistance  
18 under section 5.