To reauthorize and amend the John H. Prescott Marine Mammal Rescue and Response Grant Program and for other purposes.

IN THE SENATE OF THE UNITED STATES
JUNE 15, 2016
Ms. CANTWELL (for herself and Mr. SULLIVAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL
To reauthorize and amend the John H. Prescott Marine Mammal Rescue and Response Grant Program and for other purposes.

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Marine Mammal Re-
search and Response Act of 2016”.

SEC. 2. DATA COLLECTION AND DISSEMINATION.
Section 402 of the Marine Mammal Protection Act
of 1972 (16 U.S.C. 1421a) is amended—
(1) in subsection (b)—
(A) in paragraph (1)(A), by inserting “or entangled” after “stranded”;

(B) in paragraph (3)—

(i) by striking “strandings,” and inserting “strandings and entanglements, including unusual mortality events,”;

(ii) by inserting “stranding” before “region”; and

(iii) by striking “marine mammals; and” and inserting “and entangled marine mammals to allow comparison of the causes of illness and deaths in stranded and entangled marine mammals with physical, chemical, and biological environmental parameters; and”; and

(C) in paragraph (4), by striking “analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters.” and inserting “analyses.”; and

(2) by striking subsection (c) and inserting the following:

“(c) DATA AVAILABILITY.—
“(1) IN GENERAL.—The Secretary shall develop a program to make information, including any data and metadata, collected under subsection (b) available to researchers, stranding networks, and the public—

“(A) to improve real-time coordination of response to stranding and entanglement events across geographic areas and between stranding coordinators;

“(B) to identify and quickly disseminate information on potential public health risks;

“(C) to facilitate integrated interdisciplinary research;

“(D) to facilitate peer-reviewed publications;

“(E) to archive regional data into one national database for future analyses; and

“(F) for education and outreach activities.

“(2) PUBLIC ACCESS.—The Secretary shall ensure that—

“(A) all information, including data and metadata, collected under subsection (b) is archived in a form that is readily accessible, understandable, and can be easily shared with, the public, as appropriate, through the Marine
Mammal Health Map established under section 408A; and

“(B) not later than 60 days after the date that any information, including any data and metadata, collected under paragraph (1), (2), or (3) of subsection (b), is made readily available to stranding network participants, other qualified scientists, employees of the Federal Government, and the public through the Marine Mammal Health Map and the Integrated Ocean Observation System.

“(d) DATA REPORTING REQUIREMENTS.—The Secretary shall require each stranding network participant to submit to the National Oceanic and Atmospheric Administration, for inclusion in the Marine Mammal Health Map established under section 408A the following:

“(1) NOAA Form 89–864 (OMB #0648–0178) and NOAA Form 89–878 (OMB #0648–0178), or similar successor form, not later than 30 days after the date of a response to a stranding or entanglement event.

“(2) The information, including any data and metadata, described in paragraphs (1) and (2) of subsection (b), not later than 30 days after the date
that the information is available or updated, as applicable.

“(3) The information, including any data and metadata, described in paragraphs (3) and (4) of subsection (b), not later than 30 days after the date that the stranding network responds to a stranding or entanglement event.”.

SEC. 3. STRANDING OR ENTANGLEMENT RESPONSE AGREEMENTS.

Section 403 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421b) is amended—

(1) in the section heading by inserting “OR ENTANGLEMENT” before “RESPONSE”; and

(2) in subsection (a), by striking the period at the end and inserting “or entanglement.”.

SEC. 4. UNUSUAL MORTALITY EVENT ACTIVITY FUNDING.

(a) USES OF THE MARINE MAMMAL UNUSUAL MORTALITY EVENT FUND.—Subsection (b) of section 405 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421d) is amended to read as follows:

“(b) USES.—Amounts in the Fund—

“(1) shall be available only for use by the Secretary, in consultation with the Secretary of the Interior and dispersed among claimants based on
budgets approved by the Secretary prior to expendi-
ture—

“(A) to make advance, partial, or progress payments under contracts or other funding mechanisms for property, supplies, salaries, services, and travel costs incurred in acting in accordance with the contingency plan issued under section 404(b) or under the direction of an Onsite Coordinator for an unusual mortality event;

“(B) for reimbursing any stranding network participant for costs incurred in the preparation, analysis, and transportation of marine mammal tissues collected with respect to an unusual mortality event, including such transportation, for the Tissue Bank; and

“(C) for care and maintenance of marine mammal seized under section 104(c)(2)(D); and

“(2) shall remain available until expended.”.

(b) DEPOSITS INTO THE FUND.—Subsection (c) of section 405 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421d) is amended—

(1) in paragraph (2), by striking “and” at the end;
(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(4) sums received for marine mammal conservation, including assessment costs, fines, penalties, restitution, natural resource damages, and forfeitures of property for violations of any provision of this Act or other environmental statute and sums received from emergency declaration grants for marine mammal conservation; and

“(5) up to $750,000 per fiscal year, as determined by the Secretary of Commerce and the Secretary of the Interior, from amounts appropriated to the Secretary for carrying out this title and other titles of this Act.”.

SEC. 5. LIABILITY.

Section 406(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421e(a)) is amended by inserting “or entanglement” after “to a stranding”.

SEC. 6. NATIONAL MARINE MAMMAL TISSUE BANK AND TISSUE ANALYSIS.

Section 407 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421f) is amended—

(1) in subsection (c)(2)(A), by striking “the health of marine mammals” and inserting “marine
mammal health and mortality and the health of’’;

and

(2) in subsection (d), by inserting ‘‘public’’ be-
fore ‘‘access’’.

SEC. 7. JOHN H. PRESCOTT MARINE MAMMAL RESCUE AND
RESPONSE GRANT PROGRAM AND RAPID RE-
SPONSE FUND.

(a) IN GENERAL.—Section 408 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421f–1) is
amended to read as follows:

“SEC. 408. JOHN H. PRESCOTT MARINE MAMMAL RESCUE
AND RESPONSE GRANT PROGRAM AND RAPID
RESPONSE FUND.

“(a) JOHN H. PRESCOTT MARINE MAMMAL RESCUE
AND RESPONSE GRANT PROGRAM.—

“(1) IN GENERAL.—Subject to the availability
of appropriations, the Secretary shall conduct a
grant program to be known as the John H. Prescott
Marine Mammal Rescue and Response Grant Pro-
gram (hereinafter in this section referred to as the
‘Grant Program’) to award grants to eligible stranding
network participants or stranding network col-
laborators as described in this subsection.

“(2) PURPOSES.—The purposes of the Grant
Program are to provide for—
“(A) the recovery or treatment of sick, injured, or entangled marine mammals;

“(B) marine mammal stranding events that require emergency assistance;

“(C) the collection of data and samples from living or dead stranded marine mammals for scientific research regarding marine mammal health;

“(D) facility operating costs that are directly related to activities described in subparagraph (A), (B), or (C); and

“(E) development of Stranding Network capacity, including training for emergency response, where facilities do not exist or are sparse.

“(3) CONTRACT, GRANT, AND COOPERATIVE AGREEMENT AUTHORITY.—The Secretary may enter into a contract, grant, or cooperative agreement with any person, as the Secretary determines appropriate, for the purposes described in paragraph (2).

“(4) EQUITABLE DISTRIBUTION OF FUNDS.—

“(A) IN GENERAL.—The Secretary shall ensure, to the extent practicable, that funds awarded under the Grant Program are distributed equitably among the stranding regions.
“(B) PREFERENCES.—The Secretary shall give preference to awarding funds under the Grant Program in each stranding region to any facility with an established record of marine mammal rescue and rehabilitation, or of scientific data collection and research on sick, stranded, or entangled marine mammals where such facilities exist.

“(C) CONSIDERATIONS.—In determining priorities among the stranding regions under this paragraph, the Secretary may consider—

“(i) any episodic stranding, entanglement, or mortality event, except for an unusual mortality event, that occurred in any stranding region in the preceding year;

“(ii) any data regarding average annual stranding, entanglements, and mortality events per stranding region;

“(iii) the size of the marine mammal populations inhabiting a geographic area within a stranding region; and

“(iv) the conservation of threatened or endangered marine mammal species.
“(5) APPLICATION.—To apply for a grant under the Grant Program a stranding network participant shall—

“(A) submit an application in such form and manner as the Secretary prescribes; and

“(B) comply with the data reporting requirements of section 402(d).

“(6) CONSULTATION.—The Secretary shall consult with the Marine Mammal Commission, a representative from each of the stranding regions, and other individuals who represent public and private organizations that are actively involved in rescue, rehabilitation, release, scientific research, marine conservation, and forensic science regarding stranded marine mammals to develop criteria for awarding grants under the Grant Program.

“(7) LIMITATIONS.—

“(A) MAXIMUM GRANT AMOUNT.—No grant made under the Grant Program for a single project may exceed $200,000 in any 12-month period.

“(B) UNEXPENDED FUNDS.—Any funds awarded under the Grant Program that are unexpended or unobligated at the end a 12-month period—
“(i) shall remain available until expended; and

“(ii) shall not be taken into account for any other 12-month period for the purposes of subparagraph (A).

“(8) Matching requirement.—The non-Federal share of the costs of an activity conducted with funds awarded under the Grant Program shall be 25 percent of such costs.

“(9) Administrative costs and expenses.—Of the amounts available each fiscal year to carry out the Grant Program, the Secretary may expend not more than 6 percent or $80,000, whichever is greater, to pay the administrative costs and expenses related to reviewing and awarding grants under the Grant Program.

“(b) John H. Prescott Marine Mammal Rescue and Rapid Response Fund.—

“(1) In general.—There is established in the Treasury of the United States an interest-bearing fund to be known as the ‘John H. Prescott Marine Mammal Rescue and Rapid Response Fund’ (herein-after in this section referred to as the ‘Fund’).
“(2) USE OF FUNDS.—Amounts in the Fund shall be available only for use by the Secretary to provide emergency assistance.

“(3) MATCHING REQUIREMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the non-Federal share of the costs of an activity conducted with amounts from the Fund shall be 25 percent of such costs.

“(B) WAIVER.—The Secretary may waive the matching requirement under subparagraph (A) for activities to provide emergency assistance.

“(C) IN-KIND CONTRIBUTIONS.—The Secretary may apply to the non-Federal share of an activity conducted with amounts from the Fund, the amount of funds and the fair market value of property and services provided by non-Federal sources and used for the activity.

“(c) EMERGENCY ASSISTANCE DEFINED.—In this section:

“(1) IN GENERAL.—The term ‘emergency assistance’ means—

“(A) financial assistance provided for a stranding event or entangling event that—
“(i) causes an immediate increase in
the cost of a response, recovery, or reha-
bilitation that is greater than the usual or
allocated cost of a response, recovery, or
rehabilitation;

“(ii) is cyclical or endemic; and

“(iii) involves a marine mammal that
is out of the normal habitat for that ma-
rine mammal; or

“(B) financial assistance provided for a
stranding event or an entanglement event that
the Secretary considers to be an emergency.

“(2) Exclusions.—The term ‘emergency ass-
ance’ does not include financial assistance to re-
pond to an unusual mortality event.

“(d) Authorization of Appropriations.—

“(1) In general.—There is authorized to be
appropriated to carry out the Grant Program
$7,000,000 for each of fiscal years 2017 through
2022, to remain available until expended, of which
for each fiscal year—

“(A) $6,000,000 may be available to the
Secretary of Commerce; and

“(B) $1,000,000 may be available to the
Secretary of the Interior.
“(2) JOhn H. Prescott Marine Mammal Rescue And Rapid Response Fund.—

“(A) Authorization Of Appropriations.—There is authorized to be appropriated to the Fund $500,000 for each of fiscal years 2016 through 2021.

“(B) Transfer Of Funds.—In addition to amounts appropriated pursuant to an authorization of appropriations in subparagraph (A), there shall be deposited into the Fund up to $500,000 for each fiscal year (as determined by the Secretary) from amounts appropriated to the Secretary for carrying out this title and other titles of this Act.

“(C) Availability Of Funds.—Amounts in the Fund shall remain available until expended without regard to any law related to the negotiation, award, or administration of any contract, grant, or cooperative agreement.

“(e) Acceptance Of Donations.—For purposes of carrying out this section, the Secretary may solicit, accept, receive, hold, administer, and use gifts, devises, and bequests without any further approval or administrative action.”.
(b) **Table of Contents Amendment.**—The table of contents in the first section of the Marine Mammal Protection Act of 1972 is amended by striking the item related to section 408 and inserting the following:

“Sec. 408. John H. Prescott Marine Mammal Rescue and Response Grant Program and Rapid Response Fund.”

5 **SEC. 8. MARINE MAMMAL HEALTH MAP.**

(a) **In General.**—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by inserting after section 408 the following:

“**SEC. 408A. MARINE MAMMAL HEALTH MAP.**

“(a) **In General.**—Not later than 1 year after the date of the enactment of the Marine Mammal Research and Response Act of 2016, the Secretary, acting through the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Secretary of the Interior and the Marine Mammal Commission, shall—

“(1) establish a national marine mammal health and stranding observing system referred to as the Marine Mammal Health Map;

“(2) incorporate the Marine Mammal Health Map into the National Integrated Coastal and Ocean Observation System established under section 12304 of the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3603); and
“(3) make the Marine Mammal Health Map—

“(A) publically accessible through the Integrated Coastal and Ocean Observation System’s web portal; and

“(B) interoperable with other national data systems or for management or research purposes, as practicable.

“(b) PURPOSES.—The purposes of the Marine Mammal Health Map are to promote—

“(1) interdisciplinary research among individuals with knowledge and experience in marine mammal science, marine mammal veterinary and husbandry practices, and medical science, oceanographers, and other marine scientists;

“(2) the timely and sustained dissemination and availability of marine mammal health, stranding, entanglement, and mortality data;

“(3) the identification of spatial and temporal patterns of marine mammal mortality, disease, and stranding;

“(4) the evaluation of marine mammal health in terms of mortality as well as sublethal marine mammal health impacts;
“(5) the improved collaboration and forecasting of marine mammal and larger ecosystem health events;

“(6) rapid communication and dissemination of marine mammal strandings that may have implications for human health, such as harmful algal blooms;

“(7) the increased accessibility of data in a user friendly visual interface for public education and outreach activities; and

“(8) contribute to an ocean health index which incorporates marine mammal health data.

“(c) REQUIREMENTS.—The Marine Mammal Health Map shall—

“(1) integrate in situ, remote, and other marine mammal health, stranding, and mortality data, including visualization and metadata, from persons authorized to collect data on marine mammals, including the stranding network, Federal, State, and tribal governments, private partners, and academia;

“(2) be designed to enhance data and information availability, including data sharing between stranding network participants, scientists, and the public across stranding network regions;
“(3) be designed to facilitate data and information access across scientific disciplines, scientists, and managers; and

“(4) be designed to facilitate public access to national and regional marine mammal health, stranding, entanglement, and mortality data, including visualizations and metadata, through the Integrated Coastal and Ocean Observation System’s national and regional data portals.

“(d) PROCEDURES AND GUIDELINES.—The Secretary shall implement policies, protocols, and standards for—

“(1) the reporting requirements for marine mammal health data collected by stranding networks consistent with subsections (c) and (d) of section 402;

“(2) the timely transmission of health data from the stranding networks and other appropriate data providers to the Marine Mammal Health Map;

“(3) the timely and sustained dissemination and availability to the public of marine mammal health, stranding, entanglement, and mortality data; and
“(4) the integration of other marine mammal health, stranding, or other data as the Secretary determines appropriate.

“(e) COORDINATION.—The Administrator of the National Oceanic and Atmospheric Administration shall carry out the Marine Mammal Health Map in consultation with the Secretary of the Interior, the Marine Mammal Commission, and the National Ocean Research Leadership Council.

“(f) CONTRIBUTIONS.—For purposes of carrying out this section, the Secretary may solicit, accept, receive, hold, administer, and use gifts, devises, and bequests without any further approval or administrative action.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the Marine Mammal Protection Act of 1972, as amended by section 7(b), is amended further by inserting after the item related to section 408 the following:

“Sec. 408A. Marine Mammal Health Map.”.

SEC. 9. REPORTS TO CONGRESS.

(a) IN GENERAL.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), as amended by section 8(a), is further amended by inserting after section 408A the following:
SEC. 408B. REPORTS TO CONGRESS.

(a) APPROPRIATE COMMITTEES OF CONGRESS.—In this section, the term ‘appropriate committees of Congress’ means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources and the Committee on Science, Space, and Technology of the House of Representatives.

(b) MARINE MAMMAL HEALTH MAP STATUS REPORT.—Not later than 1 year after the date of the enactment of the Marine Mammal Research and Response Act of 2016, the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Marine Mammal Commission, the Secretary of the Interior, and the National Ocean Research Leadership Council, shall submit to the appropriate committees of Congress a report on the status of the Marine Mammal Health Map. Such report shall include the following:

(1) A detailed evaluation of the data made publically available through the Marine Mammal Health Map.

(2) A detailed list of any gaps in data collected pursuant to the Marine Mammal Health Map, a description of the reasons for such gaps, and recommendations to close such gaps.

(3) An analysis of the effectiveness of using the website of the Integrated Coastal and Ocean Ob-
observation System as a tool to collect, organize, visualize, archive, and disseminate marine mammal stranding and health data.

“(4) A list of publications, presentations, or other relevant work product resulting from, or in collaboration with, such Marine Mammal Health Map.

“(5) A description of emerging marine mammal health concerns and the applicability of such concerns to human health.

“(6) An analysis of the feasibility of the Integrated Coastal and Ocean Observation System to be used as an alert during stranding events, entanglement events, and unusual mortality events for the stranding network, Integrated Coastal and Ocean Observation System partners, Marine Mammal Health Map partners, Federal and State agencies, and local and tribal governments.

“(7) An evaluation of the use of Marine Mammal Health Map data to predict broader ecosystem events and changes that may impact marine mammal or human health and specific examples of proven or potential uses of Integrated Coastal and Ocean Observation System data for these purposes.
“(8) Recommendations for the Marine Mammal Health Map related to—

“(A) filling any identified data gaps;

“(B) data standards that could be used to improve data accessibility, transmission, interoperability, and sharing;

“(C) any other strategies that would contribute to the effectiveness and usefulness of the Marine Mammal Health Map; and

“(D) the funding levels needed to carry out the Marine Mammal Health Map.

“(c) DATA GAP ANALYSIS.—Not later than 5 years after date that the report required by subsection (b) is submitted, and every 5 years thereafter, the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Marine Mammal Commission and the Secretary of the Interior, shall submit to the appropriate committees of Congress a data gap analysis. Such analysis shall include the following:

“(1) An overview of existing participants within the Marine Mammal Stranding Network.

“(2) An identification of participant gaps within the Network.

“(3) An identification of data and reporting gaps from members of the Network.
“(4) An analysis of how stranding and health data is shared and made available to scientists, academics, State, local, and tribal governments, and the public.”.

“(d) RESCUE AND RESPONSE CAPABILITIES IN THE ARCTIC.—Not later than 1 year after the date of the enactment of the Marine Mammal Research and Response Act of 2016, the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Marine Mammal Commission and the Director of the United States Fish and Wildlife Service, shall submit to the appropriate committees of Congress a report on the response capabilities for sick and injured marine mammals in the Arctic regions of the United States. Such report shall include the following:

“(1) A description of all stranding agreements in place in the Arctic regions of the United States, including species covered, response capabilities, facilities, and data collection and analysis capabilities.

“(2) A list of State and local government agencies that have personnel trained to respond to strandings in the Arctic regions of the United States.

“(3) An assessment of potential response and data collection partners and sources of local infor-
mation and knowledge, including Alaska Native peo-
people and villages.

“(4) An analysis of spatial and temporal trends
in strandings over time in response to changing envi-
ronmental conditions in the Arctic regions of the
United States and the relationships to other unusual
mortality events, including birds and fish.

“(5) A description of training and other re-
source needs to meet emerging response require-
ments in the Arctic regions of the United States.

“(6) An analysis of oiled marine mammal and
bird response and rehabilitation capabilities in the
Arctic regions of the United States, including equip-
ment, facilities, training, and husbandry capabilities,
and an assessment of likely success rates.

“(7) Recommendations for future stranding re-
response needs in the Arctic regions of the United
States.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table
of contents in the first section of the Marine Mammal Pro-
tection Act of 1972, as amended by section 8(b), is amend-
ed further by inserting after the item related to section
408A the following:

“Sec. 408B. Reports to Congress.”.
SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 409 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421g) is amended—

(1) in paragraph (1), by striking “1993 and 1994;” and inserting “2017 through 2022;”;

(2) in paragraph (2), by striking “1993 and 1994;” and inserting “2017 through 2022;”; and

(3) in paragraph (3), by striking “fiscal year 1993.” and inserting “for each of the fiscal years 2017 through 2022.”.

SEC. 11. DEFINITIONS.

Section 410 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421h) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (7) and (8), respectively;

(2) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively;

(3) by inserting before paragraph (2), as redesignated, the following:

“(1) The term ‘entangle’ or ‘entanglement’ means an event in the wild in which a living or dead marine mammal has gear, rope, line, net, or other material wrapped around or attached to the marine mammal and is—
“(A) on a beach or shore of the United States; or

“(B) in navigable waters of the United States.”; and

(4) by inserting after paragraph (5), as redesignated, the following:

“(6) STRANDING REGION.—The term ‘stranding region’ means a geographic region designated by the Secretary for purposes of administration of this Act.”.