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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

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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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Scientific Assistance for Very Endangered North Atlantic Right Whales Act of 2019'' or the ''SAVE Right Whales Act''.

SEC. 2. FINDINGS; SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds that—

(1) North Atlantic right whales (Eubalaena glacialis) are critically endangered, with approximately 400 whales remaining at the time of the introduction of this Act;

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

(3) despite a modest recovery prior to 2010, the North Atlantic right whale is one of the most endangered whales in the world and has experienced a significant decline since 2010;

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

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

to 10 years, they are highly vulnerable to the impacts of human activity and habitat degradation;

(6) North Atlantic right whales frequently cross paths with major shipping lanes and fishing grounds, leaving the whales particularly vulnerable to vessel collisions and fishing gear entanglements, the 2 leading causes of injury and death to the species;

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

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

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

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

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

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

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

(13) North Atlantic right whales are now migrating farther north into Canadian waters and there have been at least 20 North Atlantic right whale deaths in Canada's Gulf of St. Lawrence between 2017 and 2019, as well as 8 documented

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

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Governments of the United States and Canada must work together to reduce lethal and sub-lethal effects of human activities on North Atlantic right whales; and

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

SEC. 3. PURPOSES.

The purposes of this Act are the following:

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

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

(3) To provide financial resources for those programs.

TITLE I—NORTH ATLANTIC RIGHT WHALE CONSERVATION

SEC. 101. NORTH ATLANTIC RIGHT WHALE CONSERVATION ASSISTANCE.

(a) ASSISTANCE.—

(1) IN GENERAL.—Subject to the availability of funds and in consultation with other Federal officials, the Secretary of Commerce (in this title referred to as the ''Secretary'') shall provide competitive financial assistance, including multiyear grants, for projects for the conservation of North Atlantic right whales for which project proposals are approved by the Secretary in accordance with this section.

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

(b) PROJECT PROPOSALS.—

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

(A) relevant State and tribal agencies, research institutions, and nonprofit organizations with expertise required for the conservation of North Atlantic right whales; and

(B) any other individual or entity, as determined appropriate by the Secretary, with the expertise required for the conservation of North Atlantic right whales, including large whale disentanglement teams approved by the National Oceanic and Atmospheric Administration and members in good standing of the National Marine Mammal Health and Stranding Response Program, sectors of the shipping and fishing industries, fishing gear manufacturers, and rope manufacturers.

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

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

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

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

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

(D) a description of—

(i) methods for project implementation and outcome assessment;

(ii) staffing and stakeholder engagement for the project;

(iii) the logistics of the project;

(iv) an estimated timeline for the project; and

(v) anticipated outcomes of the project;

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

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

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

the conservation of North Atlantic right whales; and

(H) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this Act.

(c) ANNUAL GRANT PROJECT PROPOSAL SOLICITATION, REVIEW, AND APPROVAL.—

(1) IN GENERAL.—The Secretary shall annually—

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

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

(C) review each such proposal on a timeline that recognizes the urgency of the declining North Atlantic right whale population to determine whether the proposal meets the criteria specified in subsection (d).

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

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

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

(C) provide written notification of the approval or disapproval to the individual or entity that submitted the proposal, other Federal officials, and each State and foreign country described in subparagraph (A).

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

(1) implement conservation programs;

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

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

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

(e) PRIORITY.—To the extent practicable, in determining whether to approve project proposals under this section, the Secretary shall prioritize projects that are designed to reduce the lethal and sub-lethal effects of human activities on North Atlantic right whales. In prioritizing such projects, the Secretary shall prioritize, among such projects, projects that are cooperative in nature and include fishing or shipping sector participants.

(f) MATCHING REQUIREMENT.—

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

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

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

(g) PROJECT REPORTING.—

(1) IN GENERAL.—Each individual or entity that receives assistance under this section for a project shall submit to the Secretary periodic reports (at such intervals as the Secretary may require) that include all information that the Secretary, after consultation with other government officials, determines is necessary to evaluate the progress and success of the project for the purposes of ensuring positive results, assessing problems, and fostering improvements.

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

SEC. 102. NORTH ATLANTIC RIGHT WHALE INTERAGENCY BUDGET.

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

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

(1) the amount of appropriations and expenditures for the preceding fiscal year for such activities and a description of such activities;

(2) the estimated amount to be expended during the current fiscal year for such activities and a description of such activities; and

(3) the amount estimated to be necessary for the next fiscal year for such activities and a description of such activities.

(b) NORTH ATLANTIC RIGHT WHALE ACTIVITIES DEFINED.—In this section, the term ''North Atlantic right whale activities'' means any activity of a Federal agency to study, observe, monitor, manage, protect, conserve, or restore the North Atlantic right whale population through direct or indirect means, including through the provision of competitive financial assistance to non-Federal entities.

SEC. 103. REPORT TO CONGRESS.

Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Secretary

shall submit to Congress a report on the results and effectiveness of projects receiving assistance provided under this title, including recommendations concerning how this title might be improved and whether funding for this title should be continued in the future.

SEC. 104. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

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

(2) ADMINISTRATIVE EXPENSES.—Of the amounts authorized to be appropriated under this subsection for a fiscal year, the Secretary may expend not more than 5 percent, or up to $80,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

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

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

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

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