

# Calendar No. 628

117TH CONGRESS  
2D SESSION

# S. 3664

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.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2022

Mr. BOOKER (for himself, Mr. CARPER, Mr. BLUMENTHAL, Mr. WHITEHOUSE, Mr. PADILLA, Mr. VAN HOLLEN, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 12, 2022

Reported by Ms. CANTWELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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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.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Right Whale Coexist-  
3 ence Act of 2022”.

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

5 (a) FINDINGS.—Congress finds that—

6 (1) North Atlantic right whales (*Eubalaena*  
7 *glacialis*) are critically endangered, with fewer than  
8 340 remaining at the time of the introduction of this  
9 Act;

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

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

18 (4) the North Atlantic right whale has been  
19 listed as an endangered species under the Endan-  
20 gered Species Conservation Act of 1969 (Public Law  
21 89–669; 80 Stat. 926) and its successor the Endan-  
22 gered Species Act of 1973 (16 U.S.C. 1531 et seq.)  
23 since 1970 and is designated as depleted under the  
24 Marine Mammal Protection Act of 1972 (16 U.S.C.  
25 1361 et seq.);

1           (5) because North Atlantic right whales are  
2           long-lived and highly migratory, and at present rates  
3           females give birth to a single calf only once every 5  
4           to 10 years, they are highly vulnerable to the im-  
5           pacts of human activity and habitat degradation,  
6           with female whales and calves particularly vulnerable  
7           to vessel strikes;

8           (6) North Atlantic right whales frequently cross  
9           paths with high vessel traffic areas and fishing  
10          grounds, leaving the whales particularly vulnerable  
11          to vessel collisions and fishing gear entanglements,  
12          the leading causes of injury and death to the species;

13          (7) even when North Atlantic right whales do  
14          not die as a result of fishing gear entanglement or  
15          vessel strike, those whales can still experience sig-  
16          nificant sub-lethal effects such as chronic stress and  
17          reproductive failure;

18          (8) this ongoing decline due to human impacts  
19          resulted in a further 30 percent decline in the popu-  
20          lation between 2019 and 2020 resulting in the low-  
21          est population estimate in the past 2 decades;

22          (9) based on the current rate of mortality of  
23          North Atlantic right whales, and because of the  
24          small number of breeding females in the population  
25          and low birth rates, recent analysis suggests the spe-

1       cies will lose its ability to recover in merely a few  
2       decades if human-caused mortality is not reduced  
3       immediately;

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

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

18          (12) ongoing mortalities, driven in part by  
19      shifts in North Atlantic right whale distribution  
20      caused by climate change, indicate that additional  
21      actions are necessary to reverse this species' popu-  
22      lation decline.

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

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

5           (2) effectively addressing the threats to the  
6       long-term viability of the North Atlantic right  
7       whales will require a joint commitment and effort  
8       from government entities, local communities, marine  
9       scientists and conservationists, fishermen, owners  
10      and operators of commercial and recreational vessels  
11      and others in the boating and shipping industries,  
12      and other stakeholders.

13 **SEC. 3. PURPOSES.**

14       The purposes of this Act are the following:

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

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

1       **TITLE I—NORTH ATLANTIC**  
 2       **RIGHT WHALE CONSERVATION**

3       **SEC. 101. NORTH ATLANTIC RIGHT WHALE CONSERVATION**  
 4               **ASSISTANCE.**

5       (a) **ASSISTANCE.—**

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

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

23      (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—

12                   (i) large whale disentanglement teams  
13                   approved by the National Oceanic and At-  
14                   mospheric Administration and members in  
15                   good standing of the National Marine  
16                   Mammal Health and Stranding Response  
17                   Program;

18                   (ii) an owner or operator of a vessel,  
19                   as defined under section 3 of title 1,  
20                   United States Code; and

21                   (iii) participants within sectors of the  
22                   maritime industry, such as boating, ship-  
23                   ping, fishing, fishing gear and rope manu-  
24                   facturing, and other maritime activities.

1           ~~(2) FEDERAL PARTNERSHIP OPPORTUNITIES.—~~

2           A Federal agency may not be a lead entity or receive  
3           funding for a project under this section, but may be  
4           included as a partner or collaborator on a project  
5           that receives such funding.

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

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

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

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

15                   ~~(C)~~ review each such proposal on a  
16                   timeline that recognizes the urgency of the de-  
17                   clining North Atlantic right whale population to  
18                   determine whether the proposal meets the cri-  
19                   teria specified in subsection (d).

20           ~~(2) CONSULTATION; APPROVAL OR DIS-~~  
21           ~~APPROVAL.—~~Subject to the availability of funds, the  
22           Secretary shall, with respect to each project proposal  
23           submitted under this section, and after consulting  
24           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) take into consideration any comments  
5           resulting from the consultation and input from  
6           fishing and other stakeholders on the potential  
7           impacts as a result of the proposal; and

8           (C) approve or disapprove the proposal in  
9           accordance with subsections (d) and (e) and  
10          provide written notification of the approval or  
11          disapproval to the individual or entity that sub-  
12          mitted the proposal; other Federal officials; and  
13          each State and foreign country described in  
14          subparagraph (A).

15          (d) CRITERIA FOR APPROVAL.—The Secretary may  
16          approve a project proposal under this section that is likely  
17          to aid in the recovery and sustainability of a viable popu-  
18          lation of North Atlantic right whales in the wild. Such  
19          projects shall—

20               (1) 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 fishing  
25               gear entanglements and vessel collisions; and

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

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

7           ~~(e)~~ PRIORITY.—In determining whether to fund  
8 project proposals under this section, the Secretary shall  
9 prioritize projects—

10           ~~(1)~~ with a substantial likelihood of reducing le-  
11 thal and sub-lethal effects on North Atlantic right  
12 whales from fishing gear entanglements or vessel  
13 collisions;

14           ~~(2)~~ that include cooperation with private sector  
15 stakeholders; and

16           ~~(3)~~ that demonstrate, or have the potential to  
17 provide, economic benefits to small businesses based  
18 in the United States.

19           ~~(f)~~ MATCHING REQUIREMENT.—

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

24           ~~(2)~~ IN-KIND CONTRIBUTIONS.—The Secretary  
25 may apply to the non-Federal share of an activity

1 conducted with financial assistance under this sec-  
2 tion the amount of funds; and the fair market value  
3 of property and services; provided by non-Federal  
4 sources and used for the activity.

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

10 (g) PROJECT REPORTING.—

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

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

1 **SEC. 102. REPORT TO CONGRESS.**

2 Not later than 2 years after the date of enactment  
 3 of this Act, and every 5 years thereafter, the Secretary  
 4 shall submit to Congress a report on the results and effec-  
 5 tiveness of projects receiving assistance provided under  
 6 this title, including recommendations concerning how this  
 7 title might be improved and whether funding for this title  
 8 should be continued in the future.

9 **SEC. 103. FUNDING.**

10 (a) **AUTHORIZATION OF APPROPRIATIONS.—**

11 (1) **AUTHORIZATION.**—There is authorized to  
 12 be appropriated to the Secretary to carry out this  
 13 title \$15,000,000 for each of fiscal years 2022  
 14 through 2032.

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

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

25 (b) **ACCEPTANCE AND USE OF DONATIONS.**—The  
 26 Secretary may accept, receive, solicit, hold, administer,

1 and use any gift, devise, or bequest to provide assistance  
 2 under section 101.

## 3 **TITLE II—CONTINUOUS** 4 **PLANKTON RECORDER**

### 5 **SEC. 201. SURVEY.**

6 (a) **IN GENERAL.**—Not later than 180 days after the  
 7 date of enactment of this Act, and on an ongoing basis  
 8 thereafter, the Secretary of Commerce shall conduct a  
 9 Continuous Plankton Recorder survey.

10 (b) **REQUIRED ELEMENTS.**—For the purpose of con-  
 11 ducting the survey required under subsection (a), the  
 12 Northeast Fisheries Science Center shall—

13 (1) to the extent possible, utilize the resources  
 14 of and partner with, on a volunteer basis, research  
 15 institutions, nonprofit organizations, commercial ves-  
 16 sels, and other Federal agencies;

17 (2) in as short a time as possible, ensure rel-  
 18 evant survey samples and results are analyzed,  
 19 stored, archived, and made publicly available;

20 (3) prioritize the collection of plankton samples  
 21 and data that inform the conservation of North At-  
 22 lantic right whales; and

23 (4) to the extent practicable, coordinate with  
 24 the Government of Canada to develop a transbound-

1       ary understanding of plankton abundance and dis-  
2       tribution.

3       ~~(c) AUTHORIZATION OF APPROPRIATIONS.—To carry~~  
4       out this section there is authorized to be appropriated to  
5       the Secretary of Commerce \$300,000 for each of fiscal  
6       years 2022 through 2032.

7       **SECTION 1. SHORT TITLE.**

8       *This Act may be cited as the “Right Whale Coexistence*  
9       *Act of 2022”.*

10      **SEC. 2. PURPOSES.**

11      *The purposes of this Act are the following:*

12               (1) *To rebuild a healthy population of the North*  
13      *Atlantic right whale.*

14               (2) *To assist in the conservation and protection*  
15      *of North Atlantic right whales by supporting North*  
16      *Atlantic right whale conservation programs that re-*  
17      *duce conflicts between North Atlantic right whales*  
18      *and human activities to sustainable levels.*

19               **TITLE I—NORTH ATLANTIC**  
20      **RIGHT WHALE CONSERVATION**

21      **SEC. 101. NORTH ATLANTIC RIGHT WHALE CONSERVATION**

22               **ASSISTANCE.**

23               (a) *ASSISTANCE.—*

24                   (1) *IN GENERAL.—Subject to the availability of*  
25      *funds and in consultation with other Federal officials,*

1     *the Secretary of Commerce (in this title referred to as*  
 2     *the “Secretary”) shall provide competitive financial*  
 3     *assistance, including multiyear grants, for projects*  
 4     *designed to reduce the lethal and sub-lethal effects of*  
 5     *human activities on North Atlantic right whales for*  
 6     *which project proposals are approved by the Secretary*  
 7     *in accordance with this section.*

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

14    (b) *PROJECT PROPOSALS.*—

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

18                 (A) *relevant State and Tribal governments,*  
 19                 *research institutions, and nonprofit organiza-*  
 20                 *tions with expertise required for the conservation*  
 21                 *of North Atlantic right whales; and*

22                 (B) *any other individual or entity, as deter-*  
 23                 *mined appropriate by the Secretary, with the ex-*  
 24                 *pertise required for the conservation of North At-*  
 25                 *lantic right whales, including—*

1                   (i) *large whale disentanglement teams*  
 2                   *approved by the National Oceanic and At-*  
 3                   *mospheric Administration and members in*  
 4                   *good standing of the National Marine Mam-*  
 5                   *mal Health and Stranding Response Pro-*  
 6                   *gram;*

7                   (ii) *an owner or operator of a vessel,*  
 8                   *as defined under section 3 of title 1, United*  
 9                   *States Code; and*

10                  (iii) *participants within sectors of the*  
 11                  *maritime industry, such as boating, ship-*  
 12                  *ping, fishing, fishing gear and rope manu-*  
 13                  *facturing, and other maritime activities.*

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

19                  (c) *ANNUAL GRANT PROJECT PROPOSAL SOLICITA-*  
 20                  *TION, REVIEW, AND APPROVAL.—*

21                  (1) *IN GENERAL.—The Secretary shall annu-*  
 22                  *ally—*

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



1           (B) provide to other Federal officials, as ap-  
 2           propriate, copies of each proposal submitted in  
 3           response to the solicitation; and

4           (C) review each such proposal on a timeline  
 5           that recognizes the urgency of the declining  
 6           North Atlantic right whale population to deter-  
 7           mine whether the proposal meets the criteria  
 8           specified in subsection (d).

9           (2)   CONSULTATION;   APPROVAL   OR   DIS-  
 10          APPROVAL.—Subject to the availability of funds, the  
 11          Secretary shall, with respect to each project proposal  
 12          submitted under this section, and after consulting  
 13          with other Federal officials, such as the Marine Mam-  
 14          mal Commission, as appropriate—

15               (A) consult, with respect to the proposal,  
 16               with the government of each State, Tribal gov-  
 17               ernment, and foreign country in which the  
 18               project is to be conducted;

19               (B) take into consideration any comments  
 20               resulting from the consultation and input from  
 21               fishing and other stakeholders on the potential  
 22               impacts as a result of the proposal; and

23               (C) approve or disapprove the proposal in  
 24               accordance with subsections (d) and (e) and pro-  
 25               vide written notification of the approval or dis-

1           *approval to the individual or entity that sub-*  
 2           *mitted the proposal, other Federal officials, and*  
 3           *each State, Tribal government, and foreign coun-*  
 4           *try described in subparagraph (A).*

5           *(d) CRITERIA FOR APPROVAL.—The Secretary may*  
 6           *approve a project proposal under this section that is likely*  
 7           *to aid in the recovery and sustainability of a viable popu-*  
 8           *lation of North Atlantic right whales in the wild. Such*  
 9           *projects shall—*

10           *(1) address the unintentional conflicts between*  
 11           *humans and North Atlantic right whales through de-*  
 12           *velopment, testing, and use of gear or technology or*  
 13           *other methods to reduce the lethal and sub-lethal ef-*  
 14           *fects on North Atlantic right whales from fishing gear*  
 15           *entanglements and vessel collisions; and*

16           *(2)(A) promote cooperative projects on such top-*  
 17           *ics with foreign governments; or*

18           *(B) promote cooperative projects on such topics*  
 19           *with affected local communities, small businesses such*  
 20           *as fishermen, others in the maritime private sector, or*  
 21           *nongovernmental organizations.*

22           *(e) PRIORITY.—In determining whether to fund project*  
 23           *proposals under this section, the Secretary shall prioritize*  
 24           *projects—*

1           (1) *with a substantial likelihood of reducing le-*  
 2           *thal and sub-lethal effects on North Atlantic right*  
 3           *whales from fishing gear entanglements or vessel colli-*  
 4           *sions;*

5           (2) *that include cooperation with private sector*  
 6           *stakeholders; and*

7           (3) *that demonstrate, or have the potential to*  
 8           *provide, economic benefits to small businesses based in*  
 9           *the United States.*

10          (f) *MATCHING REQUIREMENT.—*

11           (1) *IN GENERAL.—Except as provided in para-*  
 12           *graph (3), the non-Federal share of the costs of an ac-*  
 13           *tivity conducted with financial assistance under this*  
 14           *section shall be 25 percent of such costs.*

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

21           (3) *WAIVER OF REQUIREMENTS.—The Secretary*  
 22           *may waive the application of paragraph (1) if the*  
 23           *Secretary finds that such waiver is necessary to sup-*  
 24           *port a conservation project that the Secretary has*  
 25           *identified as of high priority.*

1       (g) *PROHIBITED USES.*—

2           (1) *IN GENERAL.*—*Except as provided in para-*  
3 *graph (2), funds awarded under this section may not*  
4 *be used to distribute resources to an entity or indi-*  
5 *vidual that is not a United States person (as defined*  
6 *in section 7701(a)(3) of the Internal Revenue Code of*  
7 *1986).*

8           (2) *EXCEPTION.*—*Funds awarded under this sec-*  
9 *tion may be used to distribute resources to a partner-*  
10 *ship that includes an entity or individual that is not*  
11 *a United States person (as defined in section*  
12 *7701(a)(30) of the Internal Revenue Code of 1986) if*  
13 *the resources are distributed directly to a partner in*  
14 *the partnership that is a United States person (as so*  
15 *defined).*

16       (h) *PROJECT REPORTING.*—

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

1           (2) *AVAILABILITY TO THE PUBLIC.*—*Reports*  
 2           *under paragraph (1) shall be made available to the*  
 3           *public in a timely manner.*

4 **SEC. 102. REPORT TO CONGRESS.**

5           *Not later than 2 years after the date of enactment of*  
 6           *this Act, and every 5 years thereafter, the Secretary shall*  
 7           *submit to the Committee on Commerce, Science, and Trans-*  
 8           *portation of the Senate and the Committee on Natural Re-*  
 9           *sources of the House of Representatives a report on the re-*  
 10          *sults and effectiveness of projects receiving assistance pro-*  
 11          *vided under this title, including recommendations con-*  
 12          *cerning how this title might be improved and whether fund-*  
 13          *ing for this title should be continued in the future.*

14 **SEC. 103. FUNDING.**

15          (a) *AUTHORIZATION OF APPROPRIATIONS.*—

16               (1) *AUTHORIZATION.*—*There is authorized to be*  
 17               *appropriated to the Secretary to carry out this title*  
 18               *\$15,000,000 for each of fiscal years 2023 through*  
 19               *2032.*

20               (2) *ADMINISTRATIVE EXPENSES.*—*Of the*  
 21               *amounts authorized to be appropriated under this*  
 22               *subsection for a fiscal year, the Secretary may expend*  
 23               *not more than 5 percent, or up to \$80,000, whichever*  
 24               *is greater, to pay the administrative expenses nec-*  
 25               *essary to carry out this title.*

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

5           (b) *ACCEPTANCE AND USE OF DONATIONS.*—*The Sec-*  
 6           *retary may accept, receive, solicit, hold, administer, and use*  
 7           *any gift, devise, or bequest, consistent with policy of the*  
 8           *Department of Commerce in effect on the date of enactment*  
 9           *of this Act, to provide assistance under section 101.*

## 10                   ***TITLE II—CONTINUOUS*** 11                   ***PLANKTON RECORDER***

### 12   ***SEC. 201. SURVEY.***

13           (a) *IN GENERAL.*—*Not later than 180 days after the*  
 14           *date of enactment of this Act, and on an ongoing basis*  
 15           *thereafter, the Secretary of Commerce shall conduct a Con-*  
 16           *tinuous Plankton Recorder survey.*

17           (b) *REQUIRED ELEMENTS.*—*For the purpose of con-*  
 18           *ducting the survey required under subsection (a), the North-*  
 19           *east Fisheries Science Center shall—*

20                   (1) *to the extent possible, utilize the resources of*  
 21                   *and partner with, on a volunteer basis, research insti-*  
 22                   *tutions, nonprofit organizations, commercial vessels,*  
 23                   *and other Federal agencies;*

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

4           (3) *prioritize the collection of plankton samples*  
5       *and data that inform the conservation of North At-*  
6       *lantic right whales; and*

7           (4) *to the extent practicable, coordinate with the*  
8       *Government of Canada to develop a transboundary*  
9       *understanding of plankton abundance and distribu-*  
10      *tion.*

11       (c) *AUTHORIZATION OF APPROPRIATIONS.—To carry*  
12      *out this section there is authorized to be appropriated to*  
13      *the Secretary of Commerce \$300,000 for each of fiscal years*  
14      *2023 through 2032, which shall be derived from existing*  
15      *funds otherwise appropriated to the Secretary.*

Calendar No. 628

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session  
**S. 3664**

**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.

DECEMBER 12, 2022  
Reported with an amendment