

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2029

To authorize the Marine Mammal Commission to establish a national research program to fund basic and applied research on marine mammals, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2009

Mr. ABERCROMBIE introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To authorize the Marine Mammal Commission to establish a national research program to fund basic and applied research on marine mammals, 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 “National Marine Mam-  
5 mal Research Program Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) populations of marine mammals that occur  
9 in waters of the United States are resources of sub-

1       stantial ecological, scientific, socioeconomic, and es-  
2       thetic value;

3               (2) although progress has been made toward  
4       understanding the impacts of human activities and  
5       natural environmental changes on marine mammal  
6       populations, much work remains to be done;

7               (3) some marine mammal populations are in  
8       various stages of recovery, while many others remain  
9       critically endangered and their status has not im-  
10      proved or has declined;

11              (4) there is a clear need to better understand,  
12      evaluate, and mitigate the impacts on marine mam-  
13      mals and other marine species of an array of anthro-  
14      pogenic activities;

15              (5) data gaps and scientific uncertainty present  
16      resource managers with significant challenges in im-  
17      plementing the Marine Mammal Protection Act of  
18      1972 (16 U.S.C. 1361 et seq.) the Endangered Spe-  
19      cies Act of 1973 (16 U.S.C. 1531 et seq.), and the  
20      National Environmental Policy Act of 1969 (42  
21      U.S.C. 4321 et seq.);

22              (6) funding has been insufficient to support all  
23      of the research required to fully understand and  
24      properly conserve and manage marine mammal pop-  
25      ulations;

1           (7) in particular, in a recent report to Congress  
2           the Marine Mammal Commission recommended the  
3           establishment of a research program, the initial goal  
4           of which is to improve understanding of anthropo-  
5           genic sound, its biologically significant effects on  
6           marine mammals and marine ecosystems, and effec-  
7           tive means for mitigating and monitoring those ef-  
8           fects;

9           (8) understanding marine mammals through re-  
10          search is essential for using the oceans wisely and  
11          protecting marine living resources, and the United  
12          States should maintain its world leadership in ma-  
13          rine mammal science and oceanography as one key  
14          to its competitive future; and

15          (9) the Marine Mammal Commission estab-  
16          lished under section 201 of the Marine Mammal  
17          Protection Act of 1972 (16 U.S.C. 1401) has re-  
18          search and management responsibilities under that  
19          Act that make it the appropriate entity to admin-  
20          ister a marine mammal research program.

21 **SEC. 3. NATIONAL MARINE MAMMAL RESEARCH PROGRAM.**

22          (a) ESTABLISHMENT OF PROGRAM.—Title II of the  
23          Marine Mammal Protection Act of 1972 (16 U.S.C. 1401  
24          et seq.) is amended—

1 (1) by inserting after the title heading the fol-  
2 lowing:

3 **“Subtitle A—General Provisions”;**

4 and

5 (2) by adding at the end the following:

6 **“Subtitle B—Marine Mammal**  
7 **Research**

8 **“SEC. 221. NATIONAL MARINE MAMMAL RESEARCH PRO-**  
9 **GRAM.**

10 “(a) ESTABLISHMENT.—The Commission shall es-  
11 tablish a program to be known as the ‘National Marine  
12 Mammal Research Program’.

13 “(b) PURPOSES.—The purposes of the program are  
14 as follows:

15 “(1) To undertake research to improve the Na-  
16 tion’s understanding of marine mammals, the fac-  
17 tors, natural and human related, that affect and  
18 threaten the health of their populations and habi-  
19 tats, and the means of mitigating those effects to  
20 ensure marine mammal conservation.

21 “(2) To coordinate and strengthen scientific re-  
22 search efforts in support of those goals by—

23 “(A) identifying and developing partner-  
24 ships among Federal agencies, academia, indus-  
25 try, and other members of the oceanographic

1 and marine mammal scientific communities in  
2 the areas of data collection, research, resource  
3 management public education, and communica-  
4 tion; and

5 “(B) reporting annually to Congress on the  
6 program.

7 “(c) DUTIES.—The Commission shall—

8 “(1) prescribe such policies and procedures nec-  
9 essary to implement the Research Program;

10 “(2) implement and support the Research Co-  
11 ordinating Committee, established under section  
12 222;

13 “(3) supervise the performance of duties by the  
14 Program Office established under subsection (d);

15 “(4) prepare an annual report to Congress on  
16 research undertaken and benefits thereof; and

17 “(5) conduct periodic program reviews.

18 “(d) AUTHORITIES.—The Commission shall have the  
19 authority, within the limits of available appropriations, to  
20 do all things necessary to carry out the provisions of this  
21 section, including the authority to—

22 “(1) enter into contracts, make grants, or enter  
23 other arrangements as may be necessary for the pur-  
24 pose of implementing the Research Program and  
25 carrying out the responsibilities of the Research Co-

1       ordinating Committee established under section  
2       222—

3               “(A) with any agency or instrumentality of  
4               the United States, with any State, territory, or  
5               possession or any political subdivision thereof,  
6               or with any person, firm, association, corpora-  
7               tion, or educational institution;

8               “(B) with or without reimbursement;

9               “(C) without performance or other bonds;

10              and

11              “(D) without regard to section 3709 of the  
12              Revised Statutes (41 U.S.C. 5);

13              “(2) accept and use the services of voluntary  
14              and uncompensated personnel necessary for the con-  
15              duct of the work of the Research Program and pro-  
16              vide transportation and subsistence as authorized by  
17              section 5703 of title 5, United States Code, for per-  
18              sons serving without compensation; and

19              “(3) prescribe such rules and regulations as it  
20              determines necessary governing the operation and  
21              organization of the Research Program.

22              “(e) NATIONAL MARINE MAMMAL RESEARCH PRO-  
23      GRAM OFFICE.—

24              “(1) ESTABLISHMENT.—The Commission shall  
25              establish a National Marine Mammal Research Pro-

1       gram Office for the Research Program. The Com-  
2       mission shall use competitive procedures in selecting  
3       an operator for the Program Office.

4               “(2) DUTIES.—The Commission shall assign  
5       the following duties to the Program Office:

6               “(A) Work with the Commission and the  
7       Research Coordinating Committee to draft the  
8       program announcement, identify proposal selec-  
9       tion criteria, organize and conduct an inde-  
10      pendent peer review of the proposals, and rec-  
11      ommend to the Commission and Research Co-  
12      ordinating Committee projects and funding allo-  
13      cations for implementation under the Research  
14      Program.

15              “(B) Manage the process for soliciting pro-  
16      posals for research, including managing peer re-  
17      view of such projects, subject to oversight and  
18      approval by the Commission and the Research  
19      Coordinating Committee.

20              “(C) Submit an annual report on the sta-  
21      tus of all projects and activities of the office,  
22      for review by the Research Coordinating Com-  
23      mittee and final approval and release by the  
24      Commission.

1           “(D) Undertake any additional duties for  
2           the administration of the Research Program  
3           that the Commission or the Research Coordinating  
4           Committee considers appropriate.

5           “(f) ANNUAL REPORT.—The Commission shall trans-  
6           mit to Congress an annual report on progress made in  
7           implementing this subtitle. The report shall contain the  
8           following:

9           “(1) A description of activities of the Research  
10          Program carried out during the preceding fiscal  
11          year, with a list of the members of the Research Co-  
12          ordinating Committee and any subcommittees in ex-  
13          istence during the fiscal year.

14          “(2) A general outline of the activities planned  
15          or conducted for the Research Program during the  
16          fiscal year for which the report is prepared.

17          “(3) A description of the involvement of the Re-  
18          search Program with Federal interagency coordi-  
19          nating entities.

20          “(4) The programs, projects, and activities of  
21          the Research Program and the estimated expendi-  
22          tures under such programs, projects, and activities  
23          during the subsequent fiscal year.



1 **“SEC. 222. NATIONAL MARINE MAMMAL RESEARCH CO-**  
2 **ORDINATING COMMITTEE.**

3 “(a) COMMITTEE.—The President, after consultation  
4 with the Commission, shall create a National Marine  
5 Mammal Research Coordinating Committee.

6 “(b) MEMBERSHIP.—

7 “(1) IN GENERAL.—The Research Coordinating  
8 Committee shall be composed of representatives of  
9 the following with experience relevant to the pur-  
10 poses of this subtitle:

11 “(A) The Secretary of the Navy.

12 “(B) The Administrator of the National  
13 Oceanic and Atmospheric Administration.

14 “(C) The Director of the National Science  
15 Foundation.

16 “(D) The Administrator of the National  
17 Aeronautics and Space Administration.

18 “(E) The Administrator of the Environ-  
19 mental Protection Agency.

20 “(F) The Commandant of the Coast  
21 Guard.

22 “(G) The Director of the United States  
23 Fish and Wildlife Service.

24 “(H) The Director of the United States  
25 Geological Survey.

1           “(I) The Director of the Minerals Manage-  
2           ment Service.

3           “(J) The President of the National Acad-  
4           emy of Sciences.

5           “(K) The Director of the Office of Science  
6           and Technology Policy.

7           “(L) The Director of the Office of Man-  
8           agement and Budget.

9           “(M) The Executive Director of the Com-  
10          mission.

11          “(N) One member appointed by the Re-  
12          search Coordinating Committee from among in-  
13          dividuals who will represent the views of ocean  
14          industries with expertise in marine mammal bi-  
15          ology, marine ecology, oceanography, or marine  
16          policy.

17          “(O) One member appointed by the Re-  
18          search Coordinating Committee from among in-  
19          dividuals who will represent the views of State  
20          governments with expertise in marine mammal  
21          biology, marine ecology, oceanography, or ma-  
22          rine policy.

23          “(P) One member appointed by the Re-  
24          search Coordinating Committee from among in-  
25          dividuals who will represent the views of aca-

1 demia with expertise in marine mammal biol-  
2 ogy, marine ecology, oceanography, or marine  
3 policy.

4 “(Q) One member appointed by the Re-  
5 search Coordinating Committee from among in-  
6 dividuals who will represent the views of the  
7 marine conservation community with expertise  
8 in marine mammal biology, marine ecology,  
9 oceanography, or marine policy.

10 “(R) One member appointed by the Re-  
11 search Coordinating Committee from among in-  
12 dividuals who will represent such other views as  
13 the chairman of such committee considers ap-  
14 propriate.

15 “(2) FACA.—The Federal Advisory Committee  
16 Act (5 App. U.S.C.) shall not apply to the Research  
17 Coordinating Committee.

18 “(3) LIMITATION ON SERVICE ON COMMITTEE  
19 OF SCIENTIFIC ADVISORS ON MARINE MAMMALS.—A  
20 member of the Research Coordinating Committee  
21 may not simultaneously serve as a member of the  
22 Committee of Scientific Advisors on Marine Mam-  
23 mals established under section 203.

24 “(c) CHAIRMAN AND VICE CHAIRMAN.—The Execu-  
25 tive Director of the Marine Mammal Commission shall be

1 the chairman of the Research Coordinating Committee  
2 and the Administrator of the National Oceanic and At-  
3 mospheric Administration shall be the vice chairman of  
4 the Research Coordinating Committee. The chairman may  
5 create subcommittees chaired by the representative of any  
6 member agency of the Research Coordinating Committee  
7 to, among other tasks, receive advice, input, or comments  
8 from experts on the national marine mammal research  
9 plan developed under section 223.

10 “(d) TERM OF OFFICE.—The term of office of a  
11 member of the Research Coordinating Committee ap-  
12 pointed under subparagraph (N), (O), (P), (Q), or (R) of  
13 subsection (b)(1) shall be 3 years, except that any member  
14 appointed to fill a vacancy occurring before the expiration  
15 of the term for which the member’s predecessor was ap-  
16 pointed shall be appointed for the remainder of such term.

17 “(e) RESPONSIBILITIES.—The Research Coordi-  
18 nating Committee shall have the following responsibilities:

19 “(1) Develop a national marine mammal re-  
20 search plan under section 223.

21 “(2) Facilitate cooperation among Federal  
22 agencies and departments with respect to marine  
23 mammal research.

1           “(3) Revise as necessary and approve the pro-  
2           gram announcement developed by the Program Of-  
3           fice.

4           “(4) Estimate, to the extent practicable, Fed-  
5           eral funding needed for marine mammal research ac-  
6           tivities to be conducted under the Plan.

7           “(5) Review and revise, at a minimum every 3  
8           years or as necessary the marine mammal research  
9           plan.

10          “(f) CONTRACT AND GRANT AUTHORITY.—

11           “(1) IN GENERAL.—The Federal departments  
12           and agencies involved in the Research Coordinating  
13           Committee may participate in interagency financing  
14           and share, transfer, receive, obligate, and expend  
15           funds appropriated to any Federal participant on  
16           the Research Coordinating Committee for the pur-  
17           poses of carrying out any administrative or pro-  
18           grammatic project or activity under this subtitle, in-  
19           cluding support for the Program Office and the Re-  
20           search Program. Funds may be transferred among  
21           such departments and agencies through an appro-  
22           priate instrument that specifies the goods, services,  
23           or space being acquired from another Research Co-  
24           ordinating Committee member and the costs of the  
25           same.

1           “(2) VOLUNTEERS AND GIFTS, DEVISES, AND  
2           BEQUESTS.—For the purposes of carrying out this  
3           subtitle the Commission may accept, solicit, and use  
4           the services of volunteers, and may accept, solicit,  
5           receive, hold, administer, and use gifts, devises, and  
6           bequests.

7           “(g) NATIONAL RESEARCH COUNCIL EVALUATION.—  
8           The chairman of the Research Coordinating Committee  
9           shall seek to enter into an agreement with the National  
10          Research Council under which the National Research  
11          Council shall periodically evaluate the scientific content of  
12          the Plan and the implementation of the research con-  
13          ducted under the Research Program and provide informa-  
14          tion and advice obtained from United States and inter-  
15          national sources and recommendations for priorities for  
16          future marine mammal research.

17          “(h) PUBLIC PARTICIPATION.—The Executive Direc-  
18          tor of the Commission shall publish the Plan, and any re-  
19          vision thereof, in the Federal Register for a public com-  
20          ment period of not less than 60 days.

21          **“SEC. 223. NATIONAL MARINE MAMMAL RESEARCH PLAN.**

22          “The Research Coordinating Committee shall develop  
23          within one year after the date of enactment of this subtitle  
24          a comprehensive 5-year national marine mammal research  
25          plan to—

1           “(1) improve understanding of marine mam-  
2           mals, their health, and their role in the marine envi-  
3           ronment;

4           “(2) characterize the impact of human-related  
5           activities on marine mammals, at the individual,  
6           population, and ecosystem levels;

7           “(3) evaluate existing conservation, mitigation,  
8           and monitoring measures;

9           “(4) develop more effective management meas-  
10          ures for marine mammals; and

11          “(5) identify critical research gaps and uncer-  
12          tainties, establish research priorities, and estimate  
13          the budgets needs for each of the priorities.

14   **“SEC. 224. DEFINITIONS.**

15          “In this subtitle:

16           “(1) PLAN.—The term ‘Plan’ means the na-  
17           tional marine mammal research plan developed  
18           under section 223.

19           “(2) PROGRAM.—The term ‘Program’ means  
20           the National Marine Mammal Research Program es-  
21           tablished under section 221(a).

22           “(3) PROGRAM OFFICE.—The term ‘Program  
23           Office’ means the National Marine Mammal Re-  
24           search Program Office established under section  
25           221(f).

1           “(4) RESEARCH COORDINATING COMMITTEE.—  
2           The term ‘Research Coordinating Committee’ means  
3           the National Marine Mammal Research Coordi-  
4           nating Committee created under section 222(a).

5   **“SEC. 225. AUTHORIZATION OF APPROPRIATIONS.**

6           “In addition to amounts otherwise authorized to be  
7           appropriated, there is to be authorized to be appropriated  
8           to the Commission to implement this subtitle \$25,000,000  
9           for each of fiscal years 2010, 2011, 2012, 2013, and  
10          2014.”.

11          (b) CLERICAL AMENDMENT.—The table of contents  
12          in the first section of such Act is amended—

13                 (1) by inserting after the item for the heading  
14                 for title II the following:

                                  “Subtitle A—General Provisions”;

15                 and

16                 (2) by adding at the end of the items for title  
17                 II the following:

                                  “Subtitle B—Marine Mammal Research

                                  “Sec. 221. National Marine Mammal Research Program.

                                  “Sec. 222. National Marine Mammal Research Coordinating Committee.

                                  “Sec. 223. National Marine Mammal Research Plan.

                                  “Sec. 224. Definitions.

                                  “Sec. 225. Authorization of appropriations.”.

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