

AMERICAN OCEAN INTELLIGENCE AND COGNITION ACT

A complementary federal bill to the American Productive Capacity Authority Act
Scarcity is a Policy Choice

UNITED STATES CONGRESS, 119TH CONGRESS, 2ND SESSION

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H.R. ____

S. ____

BY _____ (Introduced by request)

CONCERNING THE ESTABLISHMENT OF A NATIONAL PROGRAM TO RAISE, IN THE WILD AND ACROSS GENERATIONS, THE COLLECTIVE INTELLIGENCE AND COGNITION OF THE MAJOR THINKING SPECIES OF THE OCEAN AND THE INLAND WATERS, BY SCAFFOLDING EACH POPULATION'S OWN CAPABILITIES UNDER CONDITIONS OF WELFARE AND CONSENT RATHER THAN BY REMOVING OR ALTERING ANY ANIMAL, AS A CONSERVATION PROGRAM THAT STRENGTHENS THE SURVIVAL OF THE SPECIES IT SERVES, AND, IN CONNECTION THEREWITH, ESTABLISHING A NETWORK OF FIELD OUTPOSTS, A WELFARE AND PERMITTING REGIME, A DUTY OF NET ECOLOGICAL GAIN, AND PROVIDING EFFECTIVE DATES.

A BILL FOR AN ACT

LONG TITLE

AN ACT to establish a national program to raise the collective intelligence and cognition of the major thinking species of the ocean and the inland waters of the United States, in the wild and held across generations by the populations themselves; to conduct that program by scaffolding each population's own existing capabilities, so that the population does better what it already does and keeps the gain, and never by removing an animal from the wild, by altering an animal, or by handing a finished solution; to conduct the program as a conservation program, every scaffolded capability directed at the survival of the population, so that the program strengthens the species it serves; to establish a network of field outposts sited near, and not upon, the concentrations of each species, and to price the program as a repeatable production run so that it may reach enough of a species' range and generations to become the population's own inheritance; to conduct the program under a welfare regime built on the Three Rs of replacement, reduction, and refinement of Russell and Burch, on the scientific-research and enhancement permitting of the Marine Mammal Protection Act and the Endangered Species Act, and on the recognition of animal consciousness affirmed by the scientific community in the New York Declaration on Animal Consciousness of 2024; to bind every outpost to a duty of net ecological gain; to declare that no animal so scaffolded becomes a legal person and that the program creates no property in any wild animal; and to provide effective dates for implementation.

LEGISLATIVE ROUTING NOTE

FILING PROCEDURE: This bill shall be introduced in identical form in the House of Representatives and the United States Senate and referred to the appropriate standing committees.

COMMITTEE ASSIGNMENT:

House of Representatives:

- Committee on Natural Resources (marine mammals, fisheries, wildlife)
- Committee on Science, Space, and Technology (animal cognition research)

Senate:

- Committee on Commerce, Science, and Transportation (Subcommittee on Oceans, Fisheries, Weather, and the Coast Guard)
- Committee on Environment and Public Works

FISCAL IMPACT: The Congressional Budget Office shall prepare a fiscal impact statement pursuant to 2 U.S.C. 602. The program is designed to be priced as a repeatable production run, so that the cost of each additional outpost is the marginal cost of a proven, molded field unit rather than a bespoke build, and so that the program scales from a single pilot outpost to a dense national network at a predictable and declining unit cost.

CONSTITUTIONAL BASIS: The Commerce Clause (Article I, Section 8, Clause 3); the Property Clause (Article IV, Section 3, Clause 2) as to federal waters and lands; the treaty power as to migratory and cross-border species; and the powers exercised through the Marine Mammal Protection Act and the Endangered Species Act.

LEGISLATIVE DECLARATION

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

THE PARAMOUNT DECLARATION OF THIS ACT

(I) THE OCEAN ALREADY THINKS, AND THIS ACT RAISES WHAT IS ALREADY THERE.

The Congress finds that the ocean holds minds. The octopus, the dolphin, the whale, and the cuttlefish, and in the inland waters the sea otter and other capable species, already plan, learn, remember, and pass what they learn down their social and maternal lines. On the nineteenth of April, 2024, at New York University, a broad body of scientists across neuroscience, cognitive science, and philosophy affirmed, in the New York Declaration on Animal Consciousness, that the empirical evidence supports at least a realistic possibility of conscious experience in all vertebrates and in many invertebrates, including at minimum the cephalopod mollusks. This Act does not create intelligence where there is none. It raises, in the wild, the intelligence that is already there, by helping each population do better what it already does.

(II) THE METHOD IS SCAFFOLD, NOT GIFT, AND THE POPULATION KEEPS THE GAIN.

The Congress finds that the program of this Act scaffolds each population's own capabilities and never hands a finished solution. It helps a population improve at a task the population already performs, under conditions of abundance, safety, and time that give intelligence and culture room to grow, and through the struggle of trial under those conditions. The gain is held and transmitted by the population itself, down the maternal and social line or across the population, so that it becomes the population's own inheritance. A capability handed to an animal is lost with that animal. A capability scaffolded into a population is kept by the species.

(III) IT IS A CONSERVATION PROGRAM, BECAUSE EVERY GAIN SERVES SURVIVAL.

The Congress finds that every capability this program scaffolds is directed at the survival of the population in its own habitat. The program is therefore a conservation program. It strengthens the ability of a species to find food, to avoid harm, to raise its young, and to hold its range against the pressures upon it. The intelligence of a wild population is a survival asset, and to raise it is to conserve the species.

(IV) NO ANIMAL IS TAKEN, ALTERED, OR OWNED.

The Congress finds that this program removes no animal from the wild as a condition of the work, alters no animal, and creates no property in any wild animal. The animal remains wild, free, and its own. The program brings conditions and scaffolding to the population in its habitat, accepts the long generational timescale that transmission requires, and works within a welfare regime that honors the consciousness the scientific community has affirmed.

SECTION 1. Legislative findings.

The Congress finds and declares as follows.

(1) THE MINDS ARE REAL AND DOCUMENTED. The Congress finds, on the published scientific record, that the cephalopods, the cetaceans, and other marine and aquatic species display planning, tool use, social learning, and cross-generational transmission of learned behavior. The common octopus carries on the order of five hundred million neurons, about the count of a dog, with roughly two thirds of them in the arms, and it uses tools, solves mazes and puzzle boxes, and sleeps in an active, dreaming-like stage. The cuttlefish exerts self-control in a delay-of-gratification task, forgoing an immediate meal for a better one. The brain of the sperm whale is about sixty percent larger in absolute mass than that of an elephant, the brains of toothed whales and dolphins are second only to the human brain in size relative to the body, the dolphin recognizes itself in a mirror, and the bottlenose dolphins of Shark Bay carry a sponge-tool foraging technique transmitted down the maternal line as culture. The New York Declaration on Animal Consciousness, released April 19, 2024, holds that when there is a realistic possibility of conscious experience in an animal it is irresponsible to ignore that possibility in decisions affecting the animal. The program of this Act is built upon that record, and its welfare regime under Section 5 answers that obligation.

(1A) THE DARK SIDE IS NAMED AND ANSWERED. The Congress finds that raising the foraging skill of a wild population carries a real risk, that a more capable forager may in time deplete its own food supply or increase its conflict with humans. This Act names that risk plainly and answers it by design. Every capability the Program scaffolds is chosen to be wild-useful and conflict-reducing, and every intervention is paired from the outset with its conservation response, including replenishment or hatchery support where a

population's own success would otherwise draw down its food. The Program is designed with its own consequence in view, and never blind to it.

(2) THE SCAFFOLD-NOT-GIFT METHOD IS THE CORE. The Congress finds that the program helps a population do better what it already does, rather than handing it a finished solution, so that the population authors the capability itself and keeps it. The empirical warrant for fast, heritable, transmitted change under favorable conditions includes the multi-generation silver-fox work of Belyaev and its successors, and the documented transmission of a peaceable troop culture across generations in the primate literature, each showing that a population's behavior can change and be inherited within a manageable number of generations.

(3) THE TAILWIND OF MACHINE COGNITION. The Congress finds that the tools now exist to observe, identify, and understand wild animal cognition at a scale never before possible, including the individual identification of animals by machine vision, the classification of behavior from camera and acoustic records, and the analysis of animal communication, as in the work of the Cetacean Translation Initiative on the communication of the sperm whale. These tools make it possible to scaffold a capability and to measure its transmission across a wild population.

(4) SATURATION IS THE MECHANISM, NOT DECORATION. The Congress finds that a wild population's intelligence moves only when the method reaches enough of the population's range and enough of its generations that the gain becomes the population's inheritance. A single outpost proves the method. Only a dense, saturating network produces a lasting effect on a species. The program is therefore designed and priced as a production run of repeatable field outposts, so that it may reach the density a served range requires.

(5) THE LEADERS MAKE THE SCOPE LEGIBLE. The Congress finds that the program is best understood through the species the public already knows for their minds, the octopus, the dolphin, the crow of the shoreline, the whale, and their kind, and that the method applies to a far larger set of capable species that the program need not catalog in this Act. The known leaders make the scope legible; the method reaches the many.

(6) THE OUTPOST SITS NEAR THE SPECIES, NEVER UPON IT. The Congress finds that each outpost shall be sited near a concentration of a species and not upon it, near a resourced community and a field station where a team can stay and a welfare and permitting host is available, and along a permitting path that the outpost can lawfully follow. Certain rare, unique, or ecologically sensitive concentrations shall be marked as avoidance zones and shall not be entered.

(7) NON-INTERVENTION IS ALSO A CHOICE, AND IT HAS A RECORD. The Congress finds that there is a principled objection to intervening in the behavior of wild populations, and this Act honors that objection before answering it. The scientific literature sets out a framework for weighing such interventions and names the concerns they raise, including the projection of human meaning onto an animal, the risk of technological solutionism, and the danger of changing a wild population's culture in ways not understood. The Program answers each concern by its own design. It scaffolds rather than gifts, so it imposes no finished human solution; it directs every capability at survival, so it is not intervention for its own sake; and it holds any change to a wild communicative or cultural system as a matter for study under welfare review rather than a result to be forced. The Congress further finds that the governing values of conservation have shifted across the decades, that the welfare and capability of animals are now recognized in the scientific literature as values that can, in particular cases, outweigh a reflex of

non-intervention, and that the choice not to act is itself a choice with a measurable record. On the published record of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services in 2019, on the order of one million species are threatened with extinction, more than at any prior time in human history, and the current rate of extinction runs on the order of a thousand times the natural background rate. A conservation posture defined by holding populations steady, and by declining to intervene, cannot by its own logic do more than slow that loss. The work of preservation is real, difficult, and of high value, and this Act does not displace it. This Act adds what preservation alone was not built to supply, an increase in a population's own capacity to survive the pressures upon it, and it places that choice on the record openly, as a considered intervention conducted under welfare, permitting, and a duty of net ecological gain, rather than leaving non-intervention to prevail by default.

SECTION 2. Definitions.

For the purposes of this Act:

- (a) "Program" means the national program established by Section 3.
- (b) "Scaffold" means to help a wild population improve at a task it already performs, without handing it a finished solution, without removing or altering any animal, and in a manner the population can adopt and transmit as its own.
- (c) "Outpost" means a field installation of the Program, sited near a concentration of a species, from which scaffolding and observation are conducted.
- (d) "Avoidance zone" means a rare, unique, or ecologically sensitive concentration designated by the Program as not to be entered.
- (e) "Net ecological gain" means a standard under which the presence and work of an outpost leaves the habitat and the population it serves better than it found them.

SECTION 3. The National Ocean Intelligence and Cognition Program.

(a) **ESTABLISHMENT.** There is established a national Program to raise, in the wild and across generations, the collective intelligence and cognition of the major thinking species of the ocean and the inland waters of the United States, by scaffolding each population's own capabilities.

(b) **CONSERVATION PURPOSE.** Every capability the Program scaffolds shall be directed at the survival of the population in its habitat. The Program is a conservation program and shall be administered as one.

(c) **NON-DISCRIMINATION WITHIN OPERATING CONDITIONS.** An outpost shall serve every capable species that fits its operating conditions, and the Program's tracks shall be defined by operating conditions rather than by taxonomy.

(d) **NO TAKE, NO ALTERATION, NO OWNERSHIP.** The Program shall not remove any animal from the wild as a condition of the work, shall not alter any animal, and shall create no property in any wild animal.

SECTION 4. Outposts, Siting, and Saturation.

(a) THE OUTPOST NETWORK. The Program shall build and operate a network of field outposts, each sited near, and not upon, a concentration of a species, near a resourced community and a field station, and along a lawful permitting path.

(b) THE REPEATABLE UNIT. Outposts shall be built as a repeatable, molded production unit, so that the cost of each additional outpost falls with scale, and the Program shall be budgeted and scaled as a production run rather than as a series of bespoke builds.

(c) SATURATION. The Program shall build toward the density, across a species' range and generations, required for a scaffolded capability to become the population's inheritance, beginning with a pilot outpost and scaling outward.

(d) AVOIDANCE ZONES. The Program shall designate and publish avoidance zones, rare, unique, or ecologically sensitive concentrations, and shall not enter them.

SECTION 5. Welfare and Permitting.

(a) THE THREE Rs. The Program shall conduct all work under the principles of replacement, reduction, and refinement of Russell and Burch, and under an animal-welfare review on the model of the Institutional Animal Care and Use Committee.

(b) MARINE MAMMAL AND ENDANGERED SPECIES PERMITTING. Work involving marine mammals shall proceed only under a scientific-research or enhancement permit and take authorization under the Marine Mammal Protection Act, and work involving listed or cross-border species shall comply with the Endangered Species Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

(c) CONSCIOUSNESS-RESPECTING CONDUCT. The Program shall conduct its work in a manner consistent with the recognition of animal consciousness affirmed in the New York Declaration on Animal Consciousness of 2024, treating each scaffolded animal as a being capable of experience.

(d) THE PROTECTED WILD GROUP. Where the Program works with a wild social group, it shall bring conditions to the group in place, shall not remove a single member from its group, and shall accept the long generational timescale that transmission requires.

(e) THE MARINE MAMMALS ARE THREE DISTINCT APPROACHES. The Congress finds that the marine mammals do not admit a single method, and the Program shall treat the dolphin, the orca, and the great whale as three distinct approaches. The dolphin approach is a handler bridge, in which trainers experienced with animals already held in good welfare rehearse task, signal, and welfare protocol before any wild work, so that no learning is worked upon the wild animal. The orca approach is wild only and pod-cultural, scaffolding and observing dialect and hunting culture in the wild, because captivity is untenable for the species and is treated as a third rail. The great-whale approach is observational and acoustic, reaching the baleen whales through

their song-culture. In no approach shall the Program take a marine mammal into captivity for the work, and no new capture for holding shall be sought.

(f) THE MACHINE-COGNITION MEASUREMENT TOOLS. The Program shall employ the tools of machine vision, drone photogrammetry, and machine-learning bioacoustics to identify individuals, follow matriline, and analyze communication, on the model of the work of the Cetacean Translation Initiative on the sperm whale, so that the transmission and persistence of a scaffolded capability can be measured across a wild population.

SECTION 6. Net Ecological Gain.

(a) THE DUTY. Every outpost shall be designed and operated to a standard of net ecological gain, so that its presence and work leave the habitat and the population it serves better than it found them, and not merely unharmed.

(b) REPORTING. The Program shall report annually on the ecological and cognitive performance of the outpost network, including the observed transmission of scaffolded capabilities across the served populations.

SECTION 7. Non-Personhood and the Status of the Animal.

(a) NO PERSONHOOD. No animal whose capabilities are scaffolded by this Program becomes a legal person, acquires a legal right of its own by reason of the scaffolding, or ceases to be a wild animal.

(b) NO OWNERSHIP. This Program creates no property in any wild animal. The animal remains wild, free, and its own.

(c) THE HUMAN OBLIGATION. The recognition that these animals are conscious beings capable of experience creates an obligation of welfare and restraint on the human program that works with them, and that obligation is the subject of Section 5.

SECTION 8. Severability.

If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances are not affected.

SECTION 9. Effective date.

This Act shall take effect on the first day of the first full fiscal year following the date of enactment.

END OF ACT TEXT
