AMENDMENT NO.__________ Calendar No.____

Purpose: In the nature of a substitute.


S. 2453

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.

Referred to the Committee on _________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. Blumenauer

Viz:
1  Strike all after the enacting clause and insert the following:
2
3  SECTION 1. SHORT TITLE.
4  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".
5
6  SEC. 2. FINDINGS; SENSE OF CONGRESS.
7  (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 spe-
cies 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.
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 offi-
cials, the Secretary of Commerce (in this title re-
ferred to as the “Secretary”) shall provide competi-
tive financial assistance, including multyear grants,
for projects designed to reduce the lethal and sub-
lethal effects of human activities on North Atlantic
right whales for which project proposals are ap-
proved by the Secretary in accordance with this sec-
tion.

(2) USE OF EXISTING AUTHORITIES.—Assist-
ance 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.

(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 that is likely to aid in the recovery and sustainability of 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 con-
sultation with other government officials, determines
is necessary to evaluate the progress and success of
the project for the purposes of ensuring positive re-
sults, assessing problems, and fostering improve-
ments.

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

SEC. 102. REPORT TO CONGRESS.
Not later than 2 years after the date of the enact-
ment of this Act, and every 5 years thereafter, the Sec-
retary 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. 103. 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 101.

**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 voluntary 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.