AMENDMENT NO. _________ Calendar No. _______
Purpose: In the nature of a substitute.


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.

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 _______________

Viz:

1 Strike all after the enacting clause and insert the follow-

2 ing:

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Right Whale Coexist-

5 ence Act of 2022”.

6 SEC. 2. PURPOSES.

7 The purposes of this Act are the following:

8 (1) To rebuild a healthy population of the

9 North Atlantic right whale.
To assist in the conservation and protection of North Atlantic right whales by supporting North Atlantic right whale conservation programs that reduce conflicts between North Atlantic right whales and human activities to sustainable levels.

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 designed to reduce the lethal and sub-lethal effects of human activities on 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 governments, 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—

(i) 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;

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

(iii) participants within sectors of the maritime industry, such as boating, ship-
ping, fishing, fishing gear and rope manufacturing, and other maritime activities.

(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, such as the Marine
Mammal Commission, as appropriate—

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

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

(C) approve or disapprove the proposal in
accordance with subsections (d) and (e) and
provide written notification of the approval or
disapproval to the individual or entity that sub-
mitted the proposal, other Federal officials, and
each State, Tribal government, 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 popu-
lation of North Atlantic right whales in the wild. Such
projects shall—

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

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

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

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

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

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

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

(f) MATCHING REQUIREMENT.—

(1) IN GENERAL.—Except as provided in para-
graph (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-kinda 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) Prohibited Uses.—

(1) In General.—Except as provided in paragraph (2), funds awarded under this section may not be used to distribute resources to an entity or individual that is not a United States person (as defined in section 7701(a)(3) of the Internal Revenue Code of 1986).

(2) Exception.—Funds awarded under this section may be used to distribute resources to a partnership that includes an entity or individual that is not a United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1986)
if the resources are distributed directly to a partner in the partnership that is a United States person (as so defined).

(h) 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) 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 enactment of this Act, and every 5 years thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on the results and effectiveness of projects receiving assistance provided under this title, including recommenda-
tions 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 $15,000,000 for each of fiscal years 2023
through 2032.

(2) Administrative Expenses.—Of the
amounts authorized to be appropriated under this
subsection for a fiscal year, the Secretary may ex-
pend not more than 5 percent, or up to $80,000,
whichever is greater, to pay the administrative ex-
penses necessary to carry out this title.

(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, consistent with policy
of the Department of Commerce in effect on the date of
enactment of this Act, 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 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 2023 through 2032.