

Calendar No. 223

104TH CONGRESS
1ST SESSION

S. 1139

[Report No. 104-167]

A BILL

To amend the Merchant Marine Act, 1936, and for
other purposes.

NOVEMBER 2, 1995

Reported without amendment

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To amend the Merchant Marine Act, 1936, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 9 (legislative day, JULY 10), 1995

Mr. LOTT (for himself, Mr. STEVENS, Mrs. HUTCHISON, Ms. SNOWE, Mr. HOLLINGS, Mr. INOUE, Mr. BREAUX, and Ms. MIKULSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 2, 1995

Reported by Mr. PRESSLER, without amendment

A BILL

To amend the Merchant Marine Act, 1936, 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 “Maritime Reform and
5 Security Act of 1995”.

1 TITLE I—MARITIME SECURITY

2 **SEC. 101. MARITIME SECURITY PROGRAM.**

3 Title VI of the Merchant Marine Act, 1936 (46
4 U.S.C. App. 1171 et seq.) is amended—

5 (1) by striking the title heading and inserting
6 the following:

7 “TITLE VI—VESSEL OPERATING ASSISTANCE
8 PROGRAMS

9 “Subtitle A—Operating-Differential Subsidy Program”;
10 and

11 (2) by adding at the end the following new sub-
12 title:

13 “Subtitle B—Maritime Security Fleet Program

14 “ESTABLISHMENT OF FLEET

15 “SEC. 651. (a) IN GENERAL.—The Secretary of
16 Transportation shall establish a fleet of active, militarily
17 useful, privately owned vessels to meet national defense
18 and other security requirements and maintain a United
19 States presence in international commercial shipping. The
20 Fleet shall consist of privately owned, United States-flag
21 vessels for which there are in effect operating agreements
22 under this subtitle, and shall be known as the Maritime
23 Security Fleet.

24 “(b) VESSEL ELIGIBILITY.—A vessel is eligible to be
25 included in the Fleet if the vessel is self-propelled and—

1 “(1)(A) is operated by a person in that person’s
2 capacity as an ocean common carrier (as that term
3 is used in the Shipping Act of 1984 (46 U.S.C. App.
4 1701 et seq.));

5 “(B) whether in commercial service, on charter
6 to the Department of Defense, or in other employ-
7 ment, is either—

8 “(i) a roll-on/roll-off vessel with a carrying
9 capacity of at least 80,000 square feet or 500
10 twenty-foot equivalent units; or

11 “(ii) a LASH vessel with a barge capacity
12 of at least 75 barges; or

13 “(C) any other type of vessel that is determined
14 by the Secretary to be suitable for use by the United
15 States for national defense or military purposes in
16 time of war or national emergency;

17 “(2)(A)(i) is a United States-documented ves-
18 sel; and

19 “(ii) on the date an operating agreement cover-
20 ing the vessel is first entered into under this sub-
21 title, is—

22 “(I) a LASH vessel that is 25 years of age
23 or less; or

24 “(II) any other type of vessel that is 15
25 years of age or less;

1 except that the Secretary of Transportation may
2 waive the application of clause (ii) if the Secretary,
3 in consultation with the Secretary of Defense, deter-
4 mines that the waiver is in the national interest; or

5 “(B) it is not a United States-documented ves-
6 sel, but the owner of the vessel has demonstrated an
7 intent to have the vessel documented under chapter
8 121 of title 46, United States Code, if it is included
9 in the Fleet, and the vessel will be less than 10
10 years of age on the date of that documentation; and

11 “(3) the Secretary of Transportation deter-
12 mines that the vessel is necessary to maintain a
13 United States presence in international commercial
14 shipping or, after consultation with the Secretary of
15 Defense, determines that the vessel is militarily use-
16 ful for meeting the sealift needs of the United States
17 with respect to national emergencies.

18 “OPERATING AGREEMENTS

19 “SEC. 652. (a) IN GENERAL.—The Secretary of
20 Transportation shall require, as a condition of including
21 any vessel in the Fleet, that the owner or operator of the
22 vessel enter into an operating agreement with the Sec-
23 retary under this section. Notwithstanding subsection (g),
24 the Secretary may enter into an operating agreement for,
25 among other vessels that are eligible to be included in the
26 Fleet, any vessel which continues to operate under an op-

1 erating-differential subsidy contract under subtitle A or
2 which is under charter to the Department of Defense.

3 “(b) REQUIREMENTS FOR OPERATION.—An operat-
4 ing agreement under this section shall require that, during
5 the period a vessel is included in the agreement—

6 “(1) the vessel—

7 “(A) shall be operated exclusively in the
8 foreign trade or in mixed foreign and domestic
9 trade allowed under a registry endorsement is-
10 sued under section 12105 of title 46, United
11 States Code, and

12 “(B) shall not otherwise be operated in the
13 coastwise trade; and

14 “(2) the vessel shall be documented under chap-
15 ter 121 of title 46, United States Code.

16 “(c) REGULATORY RELIEF.—A contractor of a vessel
17 included in an operating agreement under this subtitle
18 may operate the vessel in the foreign commerce of the
19 United States without restriction, and shall not be subject
20 to any requirement under section 801, 808, 809, or 810
21 of this Act. Participation in the program established by
22 this subtitle shall not subject a contractor to section 805
23 or to any provision of subtitle A of title VI of this Act.

24 “(d) EFFECTIVENESS AND ANNUAL PAYMENT RE-
25 QUIREMENTS OF OPERATING AGREEMENTS.—

1 “(1) EFFECTIVENESS.—The Secretary of
2 Transportation may enter into an operating agree-
3 ment under this subtitle for fiscal year 1996. The
4 agreement shall be effective only for 1 fiscal year,
5 but shall be renewable, subject to the availability of
6 appropriations or amounts otherwise made available,
7 for each subsequent fiscal year through the end of
8 fiscal year 2005. The Secretary shall renew an oper-
9 ating agreement under this subtitle if sufficient
10 amounts are appropriated or otherwise made avail-
11 able to fund that agreement.

12 “(2) ANNUAL PAYMENT.—An operating agree-
13 ment under this subtitle shall require, subject to the
14 availability of appropriations and the other provi-
15 sions of this section, that the Secretary of Transpor-
16 tation pay each fiscal year to the contractor, for
17 each vessel that is covered by the operating agree-
18 ment, an amount equal to \$2,300,000 for fiscal year
19 1996 and \$2,100,000 for each fiscal year thereafter
20 in which the agreement is in effect. The amount
21 shall be paid in equal monthly installments at the
22 end of each month. The amount shall not be reduced
23 except as provided by this section.

24 “(e) CERTIFICATION REQUIRED FOR PAYMENT.—As
25 a condition of receiving payment under this section for a

1 fiscal year for a vessel, the owner or operator of the vessel
2 shall certify, in accordance with regulations issued by the
3 Secretary of Transportation, that the vessel has been and
4 will be operated in accordance with subsection (b)(1) for
5 at least 320 days in the fiscal year. Days during which
6 the vessel is drydocked, surveyed, inspected, or repaired
7 shall be considered days of operation for purposes of this
8 subsection.

9 “(f) OPERATING AGREEMENT IS OBLIGATION OF
10 UNITED STATES GOVERNMENT.—An operating agree-
11 ment under this subtitle constitutes a contractual obliga-
12 tion of the United States Government to pay the amounts
13 provided for in the agreement to the extent of actual ap-
14 propriations.

15 “(g) LIMITATIONS.—The Secretary of Transpor-
16 tation shall not make any payment under this subtitle for
17 a vessel with respect to any days for which the vessel is—

18 “(1) subject to an operating-differential subsidy
19 contract under subtitle A or under a charter to the
20 United States Government, other than a charter
21 pursuant to section 653;

22 “(2) not operated or maintained in accordance
23 with an operating agreement under this subtitle; or

24 “(3) more than 25 years of age, except that the
25 Secretary may make such payments for a LASH

1 vessel for any day for which the vessel is more than
2 25 years of age if that vessel—

3 “(A) is modernized after January 1, 1994,

4 “(B) is modernized before it is 25 years of
5 age, and

6 “(C) is not more than 30 years of age.

7 “(h) PAYMENTS.—With respect to payments under
8 this subtitle for a vessel included in an operating agree-
9 ment, the Secretary of Transportation—

10 “(1) except as provided in paragraph (2), shall
11 not reduce any payment for the operation of a vessel
12 to carry military or other preference cargoes under
13 section 2631 of title 10, United States Code, the Act
14 of March 26, 1934 (46 U.S.C. App. 1241–1), sec-
15 tion 901(a), 901(b), or 901b of this Act, or any
16 other cargo preference law of the United States;

17 “(2) shall not make any payment for any day
18 that a vessel is engaged in transporting more than
19 7,500 tons of civilian bulk preference cargoes pursu-
20 ant to section 901(a), 901(b), or 901b that is bulk
21 cargo; and

22 “(3) shall make a pro rata reduction in pay-
23 ment for each day less than 320 in a fiscal year that
24 a vessel covered by an operating agreement is not
25 operated in accordance with subsection (b)(1), with

1 days during which the vessel is drydocked or under-
2 going survey, inspection, or repair considered to be
3 days on which the vessel is operated.

4 “(i) PRIORITY FOR AWARDING AGREEMENTS.—Sub-
5 ject to the availability of appropriations, the Secretary
6 shall enter into operating agreements according to the fol-
7 lowing priority:

8 “(1) VESSELS OWNED BY CITIZENS.—

9 “(A) PRIORITY.—First, for any vessel that
10 is—

11 “(i) owned and operated by persons
12 who are citizens of the United States
13 under section 2 of the Shipping Act, 1916;
14 or

15 “(ii) less than 10 years of age and
16 owned and operated by a corporation that
17 is—

18 “(I) eligible to document a vessel
19 under chapter 121 of title 46, United
20 States Code; and

21 “(II) affiliated with a corporation
22 operating or managing for the Sec-
23 retary of Defense other vessels docu-
24 mented under that chapter, or char-

1 tering other vessels to the Secretary
2 of Defense.

3 “(B) LIMITATION ON NUMBER OF OPERAT-
4 ING AGREEMENTS.—The number of vessels for
5 which operating agreements may be entered
6 into by the Secretary under the priority in sub-
7 paragraph (A)—

8 “(i) for vessels described in subpara-
9 graph (A)(i), may not, for a person, exceed
10 the sum of—

11 “(I) the number of United
12 States-documented vessels the person
13 operated in the trade described by
14 subsection (b)(1)(A) of this section on
15 May 17, 1995; and

16 “(II) the number of United
17 States-documented vessels the person
18 chartered to the Secretary of Defense
19 on that date; and

20 “(ii) for vessels described in subpara-
21 graph (A)(ii), may not exceed 5 vessels.

22 “(C) TREATMENT OF RELATED PAR-
23 TIES.—For purposes of subparagraph (B), a re-
24 lated party with respect to a person shall be
25 treated as the person.

1 “(2) OTHER VESSELS OWNED BY CITIZENS AND
2 GOVERNMENT CONTRACTORS.—To the extent that
3 amounts are available after applying paragraph (1),
4 any vessel that is owned and operated by a person
5 who is—

6 “(A) a citizen of the United States under
7 section 2 of the Shipping Act, 1916, that has
8 not been awarded an operating agreement
9 under the priority established under paragraph
10 (1); or

11 “(B)(i) eligible to document a vessel under
12 chapter 121 of title 46, United States Code;
13 and

14 “(ii) affiliated with a corporation operating
15 or managing other United States-documented
16 vessels for the Secretary of Defense or charter-
17 ing other vessels to the Secretary of Defense.

18 “(3) OTHER VESSELS.—To the extent that
19 amounts are available after applying paragraphs (1)
20 and (2), any other eligible vessel.

21 “(j) TRANSFER OF OPERATING AGREEMENTS.—A
22 contractor under an operating agreement may transfer the
23 agreement (including all rights and obligations under the
24 agreement) to any person eligible to enter into that operat-
25 ing agreement under this subtitle after notification of the

1 Secretary, unless the transfer is disapproved by the Sec-
2 retary within 90 days after the date of that notification.
3 A person to whom an operating agreement is transferred
4 may receive payments from the Secretary under the agree-
5 ment only if each vessel to be included in the agreement
6 after the transfer is an eligible vessel under section
7 651(b).

8 “(k) REVERSION OF UNUSED AUTHORITY.—The ob-
9 ligation of the Secretary to make payments under an oper-
10 ating agreement under this subtitle shall terminate with
11 respect to a vessel if the contractor fails to engage in oper-
12 ation of the vessel for which such payment is required—

13 “(1) within one year after the effective date of
14 the operating agreement, in the case of a vessel in
15 existence on the effective date of the agreement, or

16 “(2) within 30 months after the effective date
17 of the operating agreement, in the case of a vessel
18 to be constructed after that effective date.

19 “(l) PROCEDURE FOR CONSIDERING APPLICATION;
20 EFFECTIVE DATE FOR CERTAIN VESSELS.—

21 “(1) PROCEDURES.—No later than 30 days
22 after the date of enactment of the Maritime Reform
23 and Security Act of 1995, the Secretary shall accept
24 applications for enrollment of vessels in the Fleet
25 and, within 90 days after receipt of an application

1 for enrollment of a vessel in the Fleet, the Secretary
2 shall enter into an operating agreement with the ap-
3 plicant or provide in writing the reason for denial
4 of that application.

5 “(2) EFFECTIVE DATE.—Unless an earlier date
6 is requested by the applicant, the effective date for
7 an operating agreement with respect to a vessel
8 which is, on the date of entry into an operating
9 agreement, either subject to a contract under sub-
10 title A or on charter to the United States Govern-
11 ment, other than a charter under section 653, shall
12 be the expiration or termination date of the contract
13 under subtitle A or of the Government charter cover-
14 ing the vessel, respectively, or any earlier date the
15 vessel is withdrawn from that contract or charter.

16 “(m) EARLY TERMINATION.—An operating agree-
17 ment under this subtitle shall terminate on a date speci-
18 fied by the contractor if the contractor notifies the Sec-
19 retary, by not later than 60 days before the effective date
20 of the termination, that the contractor intends to termi-
21 nate the agreement. Vessels included in an operating
22 agreement terminated under this subsection shall remain
23 documented under chapter 121 of title 46, United States
24 Code, until the date the operating agreement would have
25 terminated according to its terms. A contractor who termi-

1 nates an operating agreement pursuant to this subsection
2 shall continue to be bound by the provisions of section 653
3 until the date the operating agreement would have termi-
4 nated according to its terms. All terms and conditions of
5 an Emergency Preparedness Agreement entered into
6 under section 653 shall remain in effect until the date the
7 operating agreement would have terminated according to
8 its terms, except that the terms of such Emergency Pre-
9 paredness Agreement may be modified by the mutual con-
10 sent of the contractor and the Secretary of Transpor-
11 tation, in consultation with the Secretary of Defense.

12 “(n) TERMINATION FOR LACK OF FUNDS.—If, by the
13 first day of a fiscal year, insufficient funds have been ap-
14 propriated under the authority provided by section 655 for
15 that fiscal year, the Secretary of Transportation shall no-
16 tify the Congress that operating agreements authorized
17 under this subtitle for which insufficient funds are avail-
18 able will be terminated on the 60th day of that fiscal year
19 if sufficient funds are not appropriated or otherwise made
20 available by that date. If funds are not appropriated under
21 the authority provided by section 655 or otherwise made
22 available for any fiscal year by the 60th day of that fiscal
23 year, then each vessel included in an operating agreement
24 under this subtitle for which funds are not available is
25 thereby released from any further obligation under the op-

1 erating agreement, the operating agreement shall termi-
2 nate, and the vessel owner or operator may transfer and
3 register such vessel under a foreign registry deemed ac-
4 ceptable by the Secretary of Transportation, notwith-
5 standing any other provision of law. If section 902 is ap-
6 plicable to such vessel after registry under such a registry,
7 the vessel is available to be requisitioned by the Secretary
8 of Transportation pursuant to section 902.

9 “(o) AWARD OF OPERATING AGREEMENTS.—

10 “(1) IN GENERAL.—The Secretary of Transpor-
11 tation, subject to paragraph (4), shall award operat-
12 ing agreements within each priority under subsection
13 (i) (1), (2), and (3) under such regulations as may
14 be prescribed by the Secretary, but the failure to
15 promulgate such regulations shall not provide a
16 basis for denial of an application for enrollment of
17 a vessel in the Fleet.

18 “(2) NUMBER OF AGREEMENTS AWARDED.—
19 Regulations under paragraph (1) shall provide that
20 if appropriated amounts are not sufficient for oper-
21 ating agreements for eligible vessels within a priority
22 under subsection (i) (1), (2), or (3), the Secretary
23 shall award to each person, with respect to eligible
24 vessels within such priority for which such person
25 has submitted an application for an operating agree-

1 ment, a number of operating agreements that bears
2 approximately the same ratio to the total number of
3 eligible vessels in the priority for which timely appli-
4 cations have been made as the amount of appropria-
5 tions available for operating agreements for eligible
6 vessels in the priority bears to the amount of appro-
7 priations necessary for operating agreements for all
8 eligible vessels in the priority.

9 “(3) TREATMENT OF RELATED PARTIES.—For
10 purposes of paragraph (2), a related party with re-
11 spect to a person shall be treated as the person.

12 “(4) PREFERENCE FOR U.S.-BUILT VESSELS.—
13 In awarding operating agreements for vessels within
14 a priority under subsection (i) (1), (2), or (3), the
15 Secretary shall give preference to a vessel that was
16 constructed in the United States, to the extent such
17 preference is consistent with establishment of a fleet
18 described in the first sentence of section 651(a)
19 (taking into account the age of the vessel, the nature
20 of service provided by the vessel, and the commercial
21 viability of the vessel).

22 “(p) NOTICE TO UNITED STATES SHIPBUILDERS RE-
23 QUIRED.—The Secretary shall include in any operating
24 agreement under this subtitle a requirement that the con-
25 tractor under the agreement shall, by not later than 30

1 days after soliciting any bid or offer for the construction
2 of any vessel in a foreign shipyard and before entering
3 into a contract for construction of a vessel in a foreign
4 shipyard, provide notice of the intent of the contractor to
5 enter into such a contract to the Secretary of Transpor-
6 tation. The Secretary shall, by appropriate means, inform
7 shipyards in the United States capable of constructing the
8 vessel of such notice.

9 “NATIONAL SECURITY REQUIREMENTS

10 “SEC. 653. (a) EMERGENCY PREPAREDNESS AGREE-
11 MENT.—

12 “(1) REQUIREMENT TO ENTER AGREEMENT.—

13 The Secretary of Transportation shall establish an
14 Emergency Preparedness Program under this sec-
15 tion that is approved by the Secretary of Defense.
16 Under the program, the Secretary of Transportation
17 shall include in each operating agreement under this
18 subtitle a requirement that the contractor enter into
19 an Emergency Preparedness Agreement under this
20 section with the Secretary. The Secretary shall nego-
21 tiate and enter into an Emergency Preparedness
22 Agreement with each contractor as promptly as
23 practicable after the contractor has entered into an
24 operating agreement under this subtitle.

25 “(2) TERMS OF AGREEMENT.—An Emergency
26 Preparedness Agreement under this section shall re-

1 quire that upon a request by the Secretary of De-
2 fense during time of war or national emergency, an
3 owner or operator of a vessel included in an operat-
4 ing agreement under this subtitle shall make avail-
5 able commercial transportation resources (including
6 services). The basic terms of the Emergency Pre-
7 paredness Agreement shall be established pursuant
8 to consultations among the Secretary, the Secretary
9 of Defense, and Maritime Security Program contrac-
10 tors. In any Emergency Preparedness Agreement,
11 the Secretary of Transportation, in consultation with
12 the Secretary of Defense, and a contractor may
13 agree to additional or modifying terms appropriate
14 to the contractor's circumstances.

15 “(b) RESOURCES MADE AVAILABLE.—The commer-
16 cial transportation resources, including services, to be
17 made available under an Emergency Preparedness Agree-
18 ment shall include vessels or capacity in vessels, inter-
19 modal systems and equipment, terminal facilities, inter-
20 modal and management services, and other related serv-
21 ices, or any agreed portion of such nonvessel resources for
22 activation as the Secretary may determine to be necessary,
23 seeking to minimize disruption of the contractor's service
24 to commercial shippers.

25 “(c) COMPENSATION.—

1 “(1) IN GENERAL.—The Secretary of Transpor-
2 tation, in consultation with the Secretary of Defense,
3 shall provide in each Emergency Preparedness
4 Agreement for fair and reasonable compensation for
5 all commercial transportation resources, including
6 services, provided pursuant to this section.

7 “(2) SPECIFIC REQUIREMENTS.—Compensation
8 under this subsection—

9 “(A) shall not be less than the contractor’s
10 commercial market charges for like transpor-
11 tation resources, including services;

12 “(B) shall include all the contractor’s costs
13 associated with provision and use of the con-
14 tractor’s commercial resources, including serv-
15 ices, to meet emergency requirements;

16 “(C) in the case of a charter of an entire
17 vessel, shall be fair and reasonable;

18 “(D) shall be in addition to and shall not
19 in any way reflect amounts payable under sec-
20 tion 652; and

21 “(E) shall be provided from the time that
22 a vessel or resource is diverted from commercial
23 service until the time that it reenters commer-
24 cial service.

1 “(d) TEMPORARY REPLACEMENT VESSELS.—Not-
2 withstanding any other provision of this subtitle or of
3 other law to the contrary—

4 “(1) a contractor may operate or employ in for-
5 eign commerce a foreign-flag vessel or foreign-flag
6 vessel capacity, as a temporary replacement for a
7 United States-documented vessel or United States-
8 documented vessel capacity that is activated under
9 an Emergency Preparedness Agreement; and

10 “(2) such replacement vessel or vessel capacity
11 shall be eligible during the replacement period to
12 transport preference cargoes subject to section 2631
13 of title 10, United States Code, the Act of March
14 26, 1934 (46 U.S.C. App. 1241–1), and sections
15 901(a), 901(b), and 901b of this Act to the same ex-
16 tent as the eligibility of the vessel or vessel capacity
17 replaced.

18 “(e) REDELIVERY AND LIABILITY OF UNITED
19 STATES FOR DAMAGES.—

20 “(1) IN GENERAL.—All commercial transpor-
21 tation resources activated under an Emergency Pre-
22 paredness Agreement shall, upon termination of the
23 period of activation, be redelivered to the contractor
24 in the same good order and condition as when re-
25 ceived, less ordinary wear and tear, or the Govern-

1 ment shall fully compensate the contractor for any
2 necessary repair or replacement.

3 “(2) LIMITATION ON LIABILITY OF UNITED
4 STATES.—Except as may be expressly agreed to in
5 an Emergency Preparedness Agreement, or as other-
6 wise provided by law, the Government shall not be
7 liable for disruption of a contractor’s commercial
8 business or other consequential damages to a con-
9 tractor arising from activation of commercial trans-
10 portation resources, including services, under an
11 Emergency Preparedness Agreement.

12 “(3) LIMITATION ON APPLICATION OF OTHER
13 REQUIREMENTS.—Sections 902 and 909 of this Act
14 shall not apply to a vessel while it is included in an
15 Emergency Preparedness Agreement under this sub-
16 title. Any Emergency Preparedness Agreement en-
17 tered into by a contractor shall supersede any other
18 agreement between that contractor and the Govern-
19 ment for vessel availability in time of war or na-
20 tional emergency.

21 “DEFINITIONS

22 “SEC. 654. In this subtitle:

23 “(1) FLEET.—The term ‘Fleet’ means the Mar-
24 itime Security Fleet established pursuant to section
25 651(a).

1 “(2) LASH VESSEL.—The term ‘LASH vessel’
2 means a lighter aboard ship vessel.

3 “(3) UNITED STATES-DOCUMENTED VESSEL.—
4 The term ‘United States-documented vessel’ means a
5 vessel documented under chapter 121 of title 46,
6 United States Code.

7 “(4) BULK CARGO.—The term ‘bulk cargo’
8 means cargo that is loaded and carried in bulk with-
9 out mark or count.

10 “(5) CONTRACTOR.—The term ‘contractor’
11 means an owner or operator of a vessel that enters
12 into an operating agreement for the vessel with the
13 Secretary of Transportation under section 652.

14 “AUTHORIZATION OF APPROPRIATIONS

15 “SEC. 655. There are authorized to be appropriated
16 for operating agreements under this subtitle, to remain
17 available until expended, \$100,000,000 for fiscal year
18 1996 and such sums as may be necessary, not to exceed
19 \$100,000,000, for each fiscal year thereafter through fis-
20 cal year 2005.”.

21 **SEC. 102. TERMINATION OF OPERATING-DIFFERENTIAL**
22 **SUBSIDY PROGRAM.**

23 (a) LIMITATION ON PAYMENTS FOR OLDER VES-
24 SELS.—Section 605(b) of the Merchant Marine Act, 1936
25 (46 U.S.C. App. 1175(b)), is amended to read as follows:

1 “(b) No operating-differential subsidy shall be paid
2 for the operation of a vessel after the calendar year the
3 vessel becomes 25 years of age, unless the Secretary of
4 Transportation has determined, before the date of enact-
5 ment of the Maritime Reform and Security Act of 1995,
6 that it is in the public interest to grant such financial aid
7 for the operation of such vessel.”.

8 (b) WIND-UP OF PROGRAM.—Subtitle A of such Act
9 (46 U.S.C. App. 1171 et seq.), as designated by the
10 amendment made by section 2(1), is further amended by
11 adding at the end the following new section:

12 “SEC. 616. (a) After the date of enactment of the
13 Maritime Reform and Security Act of 1995, the Secretary
14 of Transportation shall not enter into any new contract
15 for operating-differential subsidy under this subtitle.

16 “(b) Notwithstanding any other provision of this Act,
17 any operating-differential subsidy contract in effect under
18 this title on the day before the date of enactment of the
19 Maritime Reform and Security Act of 1995 shall continue
20 in effect and terminate as set forth in the contract, unless
21 voluntarily terminated at an earlier date by the parties
22 (other than the United States Government) to the con-
23 tract.

24 “(c) The essential service requirements of section
25 601(a) and 603(b), and the provisions of sections 605(c)

1 and 809(a), shall not apply to the operating-differential
2 subsidy program under this subtitle effective upon the ear-
3 lier of—

4 “(1) the date that a payment is made, under
5 the Maritime Security Program established by sub-
6 title B to a contractor under that subtitle who is not
7 party to an operating-differential subsidy contract
8 under this subtitle, with the Secretary to cause no-
9 tice of the date of such payment to be published in
10 the Federal Register as soon as possible; or

11 “(2) with respect to a particular contractor
12 under the operating-differential subsidy program,
13 the date that contractor enters into a contract with
14 the Secretary under the Maritime Security Program
15 established by subtitle B.

16 “(d)(1) Notwithstanding any other provision of law,
17 a vessel may be transferred and registered under a foreign
18 registry deemed acceptable by the Secretary of Transpor-
19 tation if—

20 “(A) the operator of the vessel receives an oper-
21 ating-differential subsidy pursuant to a contract
22 under this subtitle which is in force on October 1,
23 1994, and the Secretary approves the replacement of
24 such vessel with a comparable vessel, or

1 “(B) the vessel is included in an operating
2 agreement under subtitle B, and the Secretary ap-
3 proves the replacement of such vessel with a com-
4 parable vessel for inclusion in the Maritime Security
5 Fleet established under subtitle B.

6 “(2) Any such vessel may be requisitioned by the Sec-
7 retary of Transportation pursuant to section 902.”.

8 **SEC. 103. NONCONTIGUOUS DOMESTIC TRADES.**

9 (a)(1) Except as otherwise provided in this section,
10 no contractor or related party shall receive payments pur-
11 suant to this subtitle during a period when it participates
12 in a noncontiguous domestic trade, except upon written
13 permission of the Secretary of Transportation. Such writ-
14 ten permission shall also be required for any material
15 change in the number or frequency of sailings, the capac-
16 ity offered, or the domestic ports called by a contractor
17 or related party in a noncontiguous domestic trade. The
18 Secretary may grant such written permission pursuant to
19 written application of such contractor or related party un-
20 less the Secretary finds that—

21 (A) existing service in that trade is adequate; or

22 (B) the service sought to be provided by the
23 contractor or related party—

1 (i) would result in unfair competition to
2 any other person operating vessels in such non-
3 contiguous domestic trade, or

4 (ii) would be contrary to the objects and
5 policy of this Act.

6 (2) For purposes of this subsection, “written permis-
7 sion of the Secretary” means permission which states the
8 capacity offered, the number and frequency of sailings,
9 and the domestic ports called, and which is granted follow-
10 ing—

11 (A) written application containing the informa-
12 tion required by paragraph (e)(1) by a person seek-
13 ing such written permission, notice of which applica-
14 tion shall be published in the Federal Register with-
15 in 15 days of filing of such application with the Sec-
16 retary;

17 (B) holding of a hearing on the application
18 under section 554 of title 5, United States Code, in
19 which every person, firm or corporation having any
20 interest in the application shall be permitted to in-
21 tervene and be heard; and

22 (C) final decision on the application by the Sec-
23 retary within 120 days following conclusion of such
24 hearing.

1 (b) Subsection (a) shall not apply in any way to provi-
2 sion by a contractor of service within the level of service
3 provided by that contractor as of the date established by
4 subsection (c) or to provision of service permitted by sub-
5 section (d).

6 (c) The date referred to in subsection (b) shall be
7 August 9, 1995: *Provided, however,* That with respect to
8 tug and barge service to Alaska the date referred to in
9 subsection (b) shall be July 1, 1992.

10 (d) A contractor may provide service in a trade in
11 addition to the level of service provided as of the applicable
12 date established by subsection (c) in proportion to the an-
13 nual increase in real gross product of the noncontiguous
14 State or Commonwealth served since the applicable date
15 established by subsection (c).

16 (e)(1) A person applying for award of an agreement
17 under this subtitle shall include with the application a de-
18 scription of the level of service provided by that person
19 in each noncontiguous domestic trade served as of the date
20 applicable under subsection (c). The application also shall
21 include, for each such noncontiguous domestic trade: a list
22 of vessels operated by that person in such trade, their con-
23 tainer carrying capacity expressed in twenty-foot equiva-
24 lent units (TEUs) or other carrying capacity, the itinerary
25 for each such vessel, and such other information as the

1 Secretary may require by regulation. Such description and
2 information shall be made available to the public. Within
3 15 days of the date of an application for an agreement
4 by a person seeking to provide service pursuant to sub-
5 sections (b) and (c) of this section, the Secretary shall
6 cause to be published in the Federal Register notice of
7 such description, along with a request for public comment
8 thereon. Comments on such description shall be submitted
9 to the Secretary within 30 days of publication in the Fed-
10 eral Register. Within 15 days after receipt of comments,
11 the Secretary shall issue a determination in writing either
12 accepting, in whole or part, or rejecting use of the appli-
13 cant's description to establish the level of service provided
14 as of the date applicable under subsection (e): *Provided,*
15 That notwithstanding the provisions of this subsection,
16 processing of the application for an award of an agreement
17 shall not be suspended or delayed during the time in which
18 comments may be submitted with respect to the deter-
19 mination or during the time prior to issuance by the Sec-
20 retary of the required determination: *Provided further,*
21 That if the Secretary does not make the determination re-
22 quired by this paragraph within the time provided by this
23 paragraph, the description of the level of service provided
24 by the applicant shall be deemed to be the level of service

1 provided as of the applicable date until such time as the
2 Secretary makes the determination.

3 (2) No contractor shall implement the authority
4 granted in subsection (d) of this section except as follows:

5 (A) An application shall be filed with the Sec-
6 retary which shall state the increase in capacity
7 sought to be offered, a description of the means by
8 which such additional capacity would be provided,
9 the basis for applicant's position that such increase
10 in capacity would be in proportion to or less than
11 the increase in real gross product of the relevant
12 noncontiguous State or Commonwealth since the ap-
13 plicable date established by subsection (c), and such
14 information as the Secretary may require so that the
15 Secretary may accurately determine such increase in
16 real gross product of the relevant noncontiguous
17 State or Commonwealth.

18 (B) Such increase in capacity sought by appli-
19 cant and such information shall be made available to
20 the public.

21 (C) Within 15 days of the date of an applica-
22 tion pursuant to this paragraph the Secretary shall
23 cause to be published in the Federal Register notice
24 of such application, along with a request for public
25 comment thereon.

1 (D) Comments on such application shall be sub-
2 mitted to the Secretary within 30 days of publication
3 in the Federal Register.

4 (E) Within 15 days after receipt of comments,
5 the Secretary shall issue a determination in writing
6 either accepting, in whole or part, or rejecting, the
7 increase in capacity sought by the applicant as being
8 in proportion to or less than the increase in real
9 gross product of the relevant noncontiguous State or
10 Commonwealth since the applicable date established
11 by subsection (c): *Provided* That, notwithstanding
12 the provisions of this section, if the Secretary does
13 not make the determination required by this para-
14 graph within the time provided by this paragraph,
15 the increase in capacity sought by applicant shall be
16 permitted as being in proportion to or less than such
17 increase in real gross product until such time as the
18 Secretary makes the determination.

19 (f) With respect to provision by a contractor of serv-
20 ice in a noncontiguous domestic trade not authorized by
21 this section, the Secretary shall deny payments under the
22 operating agreement with respect to the period of provi-
23 sion of such service but shall deny payments only in part
24 if the extent of provision of such unauthorized service was
25 de minimis or not material.

1 (g) Notwithstanding any other provision of this sub-
2 title, the Secretary may issue temporary permission for
3 any United States citizen, as that term is defined in sec-
4 tion 2 of the Shipping Act, 1916, to provide service to
5 a noncontiguous State or Commonwealth upon the request
6 of the Governor of such noncontiguous State or Common-
7 wealth, in circumstances where an Act of God, a declara-
8 tion of war or national emergency, or any other condition
9 occurs that prevents ocean transportation service to such
10 noncontiguous State or Commonwealth from being pro-
11 vided by persons currently providing such service. Such
12 temporary permission shall expire 90 days from date of
13 grant, unless extended by the Secretary upon written re-
14 quest of the Governor of such State or Commonwealth.

15 (h) As used in this section:

16 (1)“Level of service provided by a contractor”
17 in a trade as of a date means—

18 (A) with respect to service other than serv-
19 ice described in (B), the total annual capacity
20 provided by the contractor in that trade for the
21 12 calendar months preceding that date: *Pro-*
22 *vided*, That, with respect to unscheduled, con-
23 tract carrier tug and barge service between
24 points in Alaska south of the Arctic Circle and
25 points in the contiguous 48 States, the level of

1 service provided by a contractor shall include
2 100 percent of the capacity of the equipment
3 dedicated to such service on the date specified
4 in subsection (c) and actually utilized in that
5 service in the two-year period preceding that
6 date, excluding service to points between An-
7 chorage, Alaska and Whittier, Alaska served by
8 common carrier service unless such scheduled
9 service is only for carriage of oil or pursuant
10 to a contract with the United States military:
11 *Provided further,* That, with respect to sched-
12 uled barge service between the contiguous 48
13 States and Puerto Rico, such total annual ca-
14 pacity shall be deemed as such total annual ca-
15 pacity plus the annual capacity of two addi-
16 tional barges, each capable of carrying 185
17 trailers and 100 automobiles; and

18 (B) with respect to service provided by
19 container vessels, the overall capacity equal to
20 the sum of—

21 (i) 100 percent of the capacity of ves-
22 sels operated by or for the contractor on
23 that date, with the vessels' configuration
24 and frequency of sailing in effect on that

1 date, and which participate solely in that
2 noncontiguous domestic trade; and

3 (ii) 75 percent of the capacity of ves-
4 sels operated by or for the contractor on
5 that date, with the vessels' configuration
6 and frequency of sailing in effect on that
7 date, and which participate in that non-
8 contiguous domestic trade and in another
9 trade, provided that the term does not in-
10 clude any restriction on frequency, or num-
11 ber of sailings, or on ports called within
12 such overall capacity.

13 (2) The level of service set forth in paragraph
14 (1) shall be described with the specificity required by
15 subsection (e)(1) and shall be the level of service in
16 a trade with respect to the applicable date estab-
17 lished by subsection (c) only if the service is not
18 abandoned thereafter, except for interruptions due
19 to military contingency or other events beyond the
20 contractor's control.

21 (3) "Participates in a noncontiguous domestic
22 trade" means directly or indirectly owns, charters,
23 or operates a vessel engaged in transportation of
24 cargo between a point in the contiguous 48 states

1 and a point in Alaska, Hawaii, or Puerto Rico, other
2 than a point in Alaska north of the Arctic Circle.

3 (4) “Related party” means—

4 (A) a holding company, subsidiary, affili-
5 ate, or associate of a contractor who is a party
6 to an operating agreement under subtitle A of
7 title VI of the Merchant Marine Act, 1936; and

8 (B) an officer, director, agent, or other ex-
9 ecutive of a contractor or of a person referred
10 to in subparagraph (A).

11 TITLE II—OPERATING FLEXIBILITY AND
12 REGULATORY RELIEF

13 **SEC. 201. OPERATIONAL FLEXIBILITY.**

14 (a) IN GENERAL.—Section 804 of the Merchant Ma-
15 rine Act, 1936 (46 U.S.C. App. 1222) is amended by add-
16 ing at the end the following new subsection:

17 “(f) The provisions of subsection (a) shall not pre-
18 clude a contractor receiving assistance under subtitle A
19 or B of title VI, or any holding company, subsidiary, or
20 affiliate of the contractor, or any officer, director, agent,
21 or executive thereof, from—

22 “(1) owning, chartering, or operating any for-
23 eign-flag vessel on a voyage or a segment of a voy-
24 age that does not call at a port in the United States;

1 “(2) owning, chartering, or operating any for-
2 eign-flag vessel in line haul service between the
3 United States and foreign ports if—

4 “(A) the foreign-flag vessel was owned,
5 chartered, or operated by, or is a replacement
6 for a foreign-flag vessel owned, chartered, or
7 operated by, such owner or operator, or any
8 holding company, subsidiary, affiliate, or associ-
9 ate of such owner or operator, on the date of
10 enactment of the Maritime Reform and Security
11 Act of 1995;

12 “(B) the owner or operator, with respect to
13 each additional foreign-flag vessel, other than a
14 time chartered vessel, has first applied to have
15 that vessel included in an operating agreement
16 under subtitle B of title VI, and the Secretary
17 has not awarded an operating agreement with
18 respect to that vessel within 90 days after the
19 filing of the application; or

20 “(C) the vessel has been placed under for-
21 eign documentation pursuant to section 9 of the
22 Shipping Act, 1916 (46 U.S.C. App. 808) or
23 section 616(d) or 652(n) of this Act, except
24 that any foreign-flag vessel, other than a time
25 chartered vessel, a replacement vessel under

1 section 653(d), or a vessel owned, chartered, or
2 operated by the owner or operator on the date
3 of enactment of the Maritime Reform and Secu-
4 rity Act of 1995, in line haul service between
5 the United States and foreign ports is reg-
6 istered under the flag of a foreign registry
7 deemed appropriate by the Secretary of Trans-
8 portation, and available to be requisitioned by
9 the Secretary of Transportation pursuant to
10 section 902 of this Act;

11 “(3) owning, chartering, or operating foreign-
12 flag bulk cargo vessels that are operated in foreign-
13 to-foreign service or the foreign commerce of the
14 United States;

15 “(4) chartering or operating foreign-flag vessels
16 that are operated solely as replacement vessels for
17 United States-flag vessels or vessel capacity that are
18 made available to the Secretary of Defense pursuant
19 to section 653 of this Act; or

20 “(5) entering into time or space charter or
21 other cooperative agreements with respect to foreign-
22 flag vessels or acting as agent or broker for a for-
23 eign-flag vessel or vessels.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall apply to a contractor under subtitle

1 B of title VI of the Merchant Marine Act, 1936, as amend-
2 ed by this Act, upon enactment of this Act, and shall apply
3 to a contractor under subtitle A of title VI of that Act,
4 upon the earlier of—

5 (1) the date that a payment is made, under the
6 Maritime Security Program under subtitle B of that
7 title to a contractor under subtitle B of that title
8 who is not party to an operating-differential subsidy
9 contract under subtitle A of that title, with the Sec-
10 retary of Transportation to cause notice of the date
11 of such payment to be published in the Federal Reg-
12 ister as soon as possible; or

13 (2) with respect to a particular contractor
14 under the operating-differential subsidy program
15 under subtitle A of that title, the date that contrac-
16 tor enters into a contract with the Secretary under
17 the Maritime Security Program established by sub-
18 title B of that title.

19 **SEC. 202. REGISTRATION REFORM.**

20 Section 9 of the Shipping Act, 1916 (46 U.S.C. App.
21 808) is amended by adding at the end the following:

22 “(e) Notwithstanding subsection (c)(2), the Merchant
23 Marine Act, 1936, or any contract entered into with the
24 Secretary of Transportation under that Act, a vessel may

1 be placed under a foreign registry, with approval of the
2 Secretary, if—

3 “(1)(A) the Secretary determines that at least
4 one replacement vessel of a capacity that is equiva-
5 lent or greater, as measured by deadweight tons,
6 gross tons, or container equivalent units, as appro-
7 priate, is documented under chapter 121 of title 46,
8 United States Code, by the owner of the vessel
9 placed under the foreign registry; and

10 “(B) the replacement vessel is not more than
11 10 years of age on the date of that documentation;

12 “(2)(A) an application for an operating agree-
13 ment under subtitle B of title VI of the Merchant
14 Marine Act, 1936 has been filed with respect to a
15 vessel which is eligible to be included in the Mari-
16 time Security Fleet under section 651(b)(1) of that
17 Act; and

18 “(B) the Secretary has not awarded an operat-
19 ing agreement with respect to that vessel within 90
20 days after the date of that application;

21 “(3) a contract covering the vessel under sub-
22 title A of title VI of the Merchant Marine Act, 1936
23 has expired, and that vessel is more than 15 years
24 of age on the date the contract expires; or

1 “(4) an operating agreement covering the vessel
2 under subpart B of title VI of the Merchant Marine
3 Act, 1936 has not been renewed.”.

4 **SEC. 203. RESTRICTION REMOVAL.**

5 Title V of the Merchant Marine Act, 1936 (46 U.S.C.
6 App. 1151 et seq.) is amended by adding at the end the
7 following new section:

8 **“SEC. 512. LIMITATION ON RESTRICTIONS.**

9 “Notwithstanding any other provision of law or con-
10 tract, all restrictions and requirements under sections
11 503, 506, and 802 applicable to a liner vessel constructed,
12 reconstructed, or reconditioned with the aid of construc-
13 tion-differential subsidy shall terminate upon the expira-
14 tion of the 25-year period beginning on the date of the
15 original delivery of the vessel from the shipyard.”.

16 **SEC. 204. VESSEL STANDARDS.**

17 (a) A liner vessel which is not documented under
18 chapter 121 of title 46, United States Code, on the date
19 of enactment of this Act and which the Secretary of
20 Transportation determines to meet the criteria of section
21 651(b) of the Merchant Marine Act, 1936, shall be eligible
22 for a certificate of inspection if it is eligible under chapter
23 121 of title 46, United States Code, to be documented as
24 a United States-flag vessel after the Secretary determines
25 that—

1 (1) the vessel is classed by and designed in ac-
2 cordance with the rules of the American Bureau of
3 Shipping or other classification society accepted by
4 the Secretary; and

5 (2) the vessel complies with applicable inter-
6 national agreements and associated guidelines, as
7 determined by the requirements of the country in
8 which the vessel was registered prior to documenta-
9 tion in the United States, if, at the time the Sec-
10 retary makes those determinations, that country has
11 not been identified by the Secretary as inadequately
12 enforcing international vessel regulations.

13 (b) A vessel documented as a United States-flag ves-
14 sel under this section continues to be eligible for a certifi-
15 cate of inspection by complying with the applicable inter-
16 national agreements and associated guidelines.

17 (c) The Secretary may rely upon a certification from
18 the American Bureau of Shipping or other classification
19 society accepted by the Secretary to establish that a vessel
20 is in compliance with the requirements of subsections (a)
21 and (b).

22 (d) As used in this section, “liner vessel” means a
23 cargo carrying vessel which is not a tank vessel and which
24 is either a roll-on/roll-off vessel, a containership, a LASH
25 vessel, or a vessel which is operated in ocean common car-

1 riage within the meaning of the Shipping Act of 1984 (46
2 U.S.C. App. 1701 et seq.), or if not employed in such serv-
3 ice, determined by the Secretary to be capable of employ-
4 ment in such service.

5 TITLE III—LOAN GUARANTEES AND SHIP
6 REPAIR

7 **SEC. 301. TITLE XI LOAN GUARANTEES.**

8 Title XI of the Merchant Marine Act, 1936 (46
9 U.S.C. App. 1271 et seq.) is amended—

10 (1) in section 1101(b), by striking “owned by
11 citizens of the United States”;

12 (2) in section 1104B(a), in the material preced-
13 ing paragraph (1), by striking “owned by citizens of
14 the United States”; and

15 (3) in section 1110(a), by striking “owned by
16 citizens of the United States”.

17 **SEC. 302. VESSEL LOAN GUARANTEE PROGRAM.**

18 (a) RISK FACTOR DETERMINATIONS.—Section 1103
19 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1273)
20 is amended by adding at the end the following new sub-
21 section:

22 “(h)(1) The Secretary shall—

23 “(A) establish in accordance with this sub-
24 section a system of risk categories for obligations
25 guaranteed under this title, that categorizes the rel-

1 ative risk of guarantees made under this title with
2 respect to the risk factors set forth in paragraph
3 (3); and

4 “(B) determine for each of the risk categories
5 a subsidy rate equivalent to the average annual cost
6 of obligations in the category, expressed as a per-
7 centage of the average annual aggregate amount
8 guaranteed under this title for obligations in the cat-
9 egory.

10 “(2)(A) Before making a guarantee under this sec-
11 tion for an obligation, the Secretary shall apply the risk
12 factors set forth in paragraph (3) to place the obligation
13 in a risk category established under paragraph (1)(A).

14 “(B) The Secretary shall consider the aggregate
15 amount available to the Secretary for making guarantees
16 under this title to be reduced by the amount determined
17 by multiplying—

18 “(i) the amount guaranteed under this title for
19 an obligation, by

20 “(ii) the subsidy rate for the category in which
21 the obligation is placed under subparagraph (A) of
22 this paragraph.

23 “(C) The estimated long-term cost to the Government
24 of a guarantee made by the Secretary under this title for

1 an obligation is deemed to be the amount determined
2 under subparagraph (B) for the obligation.

3 “(D) The Secretary may not guarantee obligations
4 under this title after the aggregate amount available to
5 the Secretary under appropriations Acts for the cost of
6 loan guarantees is required by subparagraph (B) to be
7 considered reduced to zero.

8 “(3) The risk factors referred to in paragraphs (1)
9 and (2) are the following:

10 “(A) If applicable, the country risk for each eli-
11 gible export vessel financed or to be financed by an
12 obligation.

13 “(B) The period for which an obligation is
14 guaranteed or to be guaranteed.

15 “(C) The portion of an obligation, which is
16 guaranteed or to be guaranteed, in relation to the
17 total cost of the project financed or to be financed
18 by the obligation.

19 “(D) The financial condition of an obligor or
20 applicant for a guarantee.

21 “(E) If applicable, any guarantee under this
22 title for an associated project.

23 “(F) If applicable, the projected employment of
24 each vessel or equipment to be financed with an obli-
25 gation.

1 “(G) If applicable, the projected market that
2 will be served by each vessel or equipment to be fi-
3 nanced with an obligation.

4 “(H) The collateral provided for a guarantee
5 for an obligation.

6 “(I) The management and operating experience
7 of an obligor or applicant for a guarantee.

8 “(J) Whether a guarantee is or will be in effect
9 during the construction period of the project fi-
10 nanced with the proceeds of a guaranteed obligation.

11 “(4) In this subsection, the term ‘cost’ has the mean-
12 ing given that term in section 502 of the Federal Credit
13 Reform Act of 1990 (2 U.S.C. 661a).”.

14 (b) APPLICATION.—Subsection (h)(2) of section 1103
15 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1273),
16 as amended by subsection (a) of this section, shall apply
17 to guarantees that the Secretary of Transportation makes
18 or commits to make with amounts that are unobligated
19 on or after the date of enactment of this Act.

20 (c) GUARANTEE FEES.—Section 1104A(e) of title XI
21 of the Merchant Marine Act, 1936 (46 U.S.C. App.
22 1274(e)) is amended to read as follows:

23 “(e)(1) Except as otherwise provided in this sub-
24 section, the Secretary shall prescribe regulations to assess

1 in accordance with this subsection a fee for the guarantee
2 of an obligation under this title.

3 “(2)(A) The amount of a fee under this subsection
4 for a guarantee is equal to the sum determined by adding
5 the amounts determined under subparagraph (B) for the
6 years in which the guarantee is in effect.

7 “(B) The amount referred to in subparagraph (A) for
8 a year is the present value (determined by applying the
9 discount rate determined under subparagraph (F)) of the
10 amount determined by multiplying—

11 “(i) the estimated average unpaid principal
12 amount of the obligation that will be outstanding
13 during the year (determined in accordance with sub-
14 paragraph (E)), by

15 “(ii) the fee rate established under subpara-
16 graph (C) for the obligation for each year.

17 “(C) The fee rate referred to in subparagraph (B)(ii)
18 for an obligation shall be—

19 “(i) in the case of an obligation for a delivered
20 vessel or equipment, not less than one-half of 1 per-
21 cent and not more than 1 percent, determined by
22 the Secretary for the obligation under the formula
23 established under subparagraph (D); or

24 “(ii) in the case of an obligation for a vessel to
25 be constructed, reconstructed, or reconditioned, or of

1 equipment to be delivered, not less than one-quarter
2 of 1 percent and not more than one-half of 1 per-
3 cent, determined by the Secretary for the obligation
4 under the formula established under subparagraph
5 (D).

6 “(D) The Secretary shall establish a formula for de-
7 termining the fee rate for an obligation for purposes of
8 subparagraph (C), that—

9 “(i) is a sliding scale based on the creditworthi-
10 ness of the obligor;

11 “(ii) takes into account the security provided
12 for a guarantee under this title for the obligation;
13 and

14 “(iii) uses—

15 “(I) in the case of the most creditworthy
16 obligors, the lowest rate authorized under sub-
17 paragraph (C) (i) or (ii), as applicable; and

18 “(II) in the case of the least creditworthy
19 obligors, the highest rate authorized under sub-
20 paragraph (C) (i) or (ii), as applicable.

21 “(E) For purposes of subparagraph (B)(i), the esti-
22 mated average unpaid principal amount does not include
23 the average amount (except interest) on deposit in a year
24 in the escrow fund under section 1108.

1 “(F) For purposes of determining present value
2 under subparagraph (B) for an obligation, the Secretary
3 shall apply a discount rate determined by the Secretary
4 of the Treasury taking into consideration current market
5 yields on outstanding obligations of the United States hav-
6 ing periods to maturity comparable to the period to matu-
7 rity for the obligation with respect to which the determina-
8 tion of present value is made.

9 “(3) A fee under this subsection shall be assessed and
10 collected not later than the date on which amounts are
11 first advanced under an obligation with respect to which
12 the fee is assessed.

13 “(4) A fee paid under this subsection is not refund-
14 able. However, an obligor shall receive credit for the
15 amount paid for the remaining term of the guaranteed ob-
16 ligation if the obligation is refinanced and guaranteed
17 under this title after such refinancing.

18 “(5) The amount guaranteed by the Secretary under
19 this title shall include the amount of the fee paid under
20 this subsection.”.

21 (d) FISHING VESSEL LOAN GUARANTEES.—Notwith-
22 standing any other provision of law, for purposes of sec-
23 tion 1101(n) of the Merchant Marine Act, 1936 (46
24 U.S.C. App. 1271(n)), the Secretary of Transportation
25 shall be deemed the “Secretary” with respect to loan guar-

1 antee applications to finance the construction, reconstruc-
2 tion, or reconditioning of fishing vessels intended for the
3 export commerce. Any fishing vessel financed with a De-
4 partment of Transportation export loan guarantee shall
5 be prohibited from engaging in any fishery within the
6 United States exclusive economic zone.

7 **SEC. 303. VESSEL REPAIR AND MAINTENANCE PILOT PRO-**
8 **GRAM.**

9 (a) **IN GENERAL.**—The Secretary of Transportation
10 shall conduct a pilot program to evaluate the feasibility
11 of using long-term contracts for the maintenance and re-
12 pair of outported vessels in the Ready Reserve Force to
13 enhance the readiness of those vessels. Under the pilot
14 program, the Secretary, subject to the availability of ap-
15 propriations and with 6 months after the date of the en-
16 actment of this Act, shall award 9 contracts for this pur-
17 pose.

18 (b) **USE OF VARIOUS CONTRACTING ARRANGE-**
19 **MENTS.**—In conducting a pilot program under this sec-
20 tion, the Secretary of Transportation shall use contracting
21 arrangements similar to those used by the Department of
22 Defense for procuring maintenance and repair of its ves-
23 sels.

24 (c) **CONTRACT REQUIREMENTS.**—Each contract with
25 a shipyard under this section shall—

1 (1) subject to subsection (d), provide for the
2 procurement from the shipyard of all repair and
3 maintenance (including activation, deactivation, and
4 drydocking) for 1 vessel in the Ready Reserve Force
5 that is outported in the geographical vicinity of the
6 shipyard; and

7 (2) be effective for 3 years.

8 (d) LIMITATION OF WORK UNDER CONTRACTS.—A
9 contract under this section may not provide for the pro-
10 curement of operation or manning for a vessel that may
11 be procured under another contract for the vessel to which
12 section 11(d)(2) of the Merchant Ship Sales Act of 1946
13 (50 U.S.C. App. 1774(d)(2)) applies.

14 (e) GEOGRAPHIC DISTRIBUTION.—The Secretary
15 shall seek to distribute contract awards under this section
16 to shipyards located throughout the United States.

17 (f) REPORTS.—The Secretary shall submit to the
18 Congress—

19 (1) an interim report on the effectiveness of
20 each contract under this section in providing for eco-
21 nomic and efficient repair and maintenance of the
22 vessel included in the contract, no later than 20
23 months after the date of the enactment of this Act;
24 and

1 (2) a final report on that effectiveness no later
2 than 6 months after the termination of all contracts
3 awarded pursuant to this section.

4 TITLE IV—MISCELLANEOUS

5 **SEC. 401. MERCHANT MARINER BENEFITS.**

6 (a) Part G of subtitle II, title 46, United States Code,
7 is amended by adding at the end the following new chap-
8 ter:

 “CHAPTER 112—MERCHANT MARINER BENEFITS

 “Sec.

 “11201. Qualified service.

 “11202. Documentation of qualified service.

 “11203. Eligibility for certain veterans’ benefits.

 “11204. Processing fees.

9 **“11201. Qualified service**

10 “For purposes of this chapter, a person engaged in
11 qualified service if, between August 16, 1945, and Decem-
12 ber 31, 1946, the person—

13 “(1) was a member of the United States mer-
14 chant marine (including the Army Transport Service
15 and the Naval Transportation Service) serving as a
16 crewmember of a vessel that was—

17 “(A) operated by the War Shipping Ad-
18 ministration or the Office of Defense Transpor-
19 tation (or an agent of the Administration or Of-
20 fice);

1 “(B) operated in waters other than inland
2 waters, the Great Lakes, other lakes, bays, and
3 harbors of the United States;

4 “(C) under contract or charter to, or prop-
5 erty of, the Government of the United States;
6 and

7 “(D) serving the Armed Forces; and

8 “(2) while so serving, was licensed or otherwise
9 documented for service as a crewmember of such a
10 vessel by an officer or employee of the United States
11 authorized to license or document the person for
12 such service.

13 **“11202. Documentation of qualified service**

14 “(a) The Secretary shall, upon application—

15 “(1) issue a certificate of honorable discharge
16 to a person who, as determined by the Secretary, en-
17 gaged in qualified service of a nature and duration
18 that warrants issuance of the certificate; and

19 “(2) correct, or request the appropriate official
20 of the Federal Government to correct, the service
21 records of the person to the extent necessary to re-
22 flect the qualified service and the issuance of the
23 certificate of honorable discharge.

1 “(b) The Secretary shall take action on an application
2 under subsection (a) not later than one year after the Sec-
3 retary receives the application.

4 “(c) In making a determination under subsection
5 (a)(1), the Secretary shall apply the same standards relat-
6 ing to the nature and duration of service that apply to
7 the issuance of honorable discharges under section
8 401(a)(1)(B) of the GI Bill Improvement Act of 1977 (38
9 U.S.C. 106 note).

10 “(d) An official of the Federal Government who is
11 requested to correct service records under subsection
12 (a)(2) shall do so.

13 **“11203. Eligibility for certain veterans’ benefits**

14 “(a) The qualified service of an individual who—

15 “(1) receives an honorable discharge certificate
16 under section 11202 of this title, and

17 “(2) is not eligible under any other provision of
18 law for benefits under laws administered by the Sec-
19 retary of Veterans Affairs, is deemed to be active
20 duty in the Armed Forces during a period of war for
21 purposes of eligibility for benefits under chapters 23
22 and 24 of title 38.

23 “(b) The Secretary shall reimburse the Secretary of
24 Veterans Affairs for the value of benefits that the Sec-

1 retary of Veterans Affairs provides for an individual by
2 reason of eligibility under this section.

3 “(c) An individual is not entitled to receive, and may
4 not receive, benefits under this chapter for any period be-
5 fore the date on which this chapter takes effect.

6 **“11204. Processing fees**

7 “(a) The Secretary shall collect a fee of \$30 from
8 each applicant for processing an application submitted
9 under section 11202(a) of this title.

10 “(b) Amounts received by the Secretary under this
11 section shall be credited to appropriations available to the
12 Secretary for carrying out this chapter.”.

13 (b) The table of chapters at the beginning of subtitle
14 II of title 46, United States Code, is amended by inserting
15 after the item relating to chapter 111 the following:

“112. Merchant Mariner Benefits 11201”.

16 **SEC. 402. REEMPLOYMENT RIGHTS FOR CERTAIN MER-**
17 **CHANT SEAMEN.**

18 (a) IN GENERAL.—Title III of the Merchant Marine
19 Act, 1936 (46 U.S.C. App. 1131) is amended by inserting
20 after section 301 the following new section:

21 “SEC. 302. (a) An individual who is certified by the
22 Secretary of Transportation under subsection (c) shall be
23 entitled to reemployment rights and other benefits sub-
24 stantially equivalent to the rights and benefits provided
25 for by chapter 43 of title 38, United States Code, for any

1 member of a Reserve component of the Armed Forces of
2 the United States who is ordered to active duty.

3 “(b) An individual may submit an application for cer-
4 tification under subsection (c) to the Secretary of Trans-
5 portation not later than 45 days after the date the individ-
6 ual completes a period of employment described in sub-
7 section (c)(1)(A) with respect to which the application is
8 submitted.

9 “(c) Not later than 20 days after the date the Sec-
10 retary of Transportation receives from an individual an
11 application for certification under this subsection, the Sec-
12 retary shall—

13 “(1) determine whether or not the individual—

14 “(A) was employed in the activation or op-
15 eration of a vessel—

16 “(i) in the National Defense Reserve
17 Fleet maintained under section 11 of the
18 Merchant Ship Sales Act of 1946, in a pe-
19 riod in which that vessel was in use or
20 being activated for use under subsection
21 (b) of that section;

22 “(ii) that is requisitioned or pur-
23 chased under section 902 of this Act; or

24 “(iii) that is owned, chartered, or con-
25 trolled by the United States and used by

1 the United States for a war, armed con-
2 flict, national emergency, or maritime mo-
3 bilization need (including for training pur-
4 poses or testing for readiness and suit-
5 ability for mission performance); and

6 “(B) during the period of that employ-
7 ment, possessed a valid license, certificate of
8 registry, or merchant mariner’s document is-
9 sued under chapter 71 or chapter 73 (as appli-
10 cable) of title 46, United States Code; and

11 “(2) if the Secretary makes affirmative deter-
12 minations under paragraph (1) (A) and (B), certify
13 that individual under this subsection.

14 “(d) For purposes of reemployment rights and bene-
15 fits provided by this section, a certification under sub-
16 section (c) shall be considered to be the equivalent of a
17 certificate referred to in paragraph (1) of section 4301(a)
18 of title 38, United States Code.”.

19 (b) APPLICATION.—The amendment made by sub-
20 section (a) shall apply to employment described in section
21 302(c)(1)(A) of the Merchant Marine Act, 1936, as
22 amended by subsection (a), occurring after the date of en-
23 actment of this Act.

1 (c) REGULATION.—Not later than 120 days after the
 2 date of the enactment of this Act, the Secretary of Trans-
 3 portation shall issue regulations implementing this section.

4 **SEC. 403. EXTENSION OF WAR RISK INSURANCE AUTHOR-**
 5 **ITY.**

6 Section 1214 of the Merchant Marine Act, 1936 (46
 7 U.S.C. App. 1294) is amended by striking “June 30,
 8 1995” and inserting “June 30, 2000”.

9 **SEC. 404. AMENDMENT TO THE MERCHANT SHIP SALES**
 10 **ACT.**

11 Section 11(b)(2) of the Merchant Ship Sales Act of
 12 1946 (50 U.S.C. App. 1744(b)(2)) is amended by striking
 13 “Secretary of the Navy,” and inserting “Secretary of De-
 14 fense,”.

15 **SEC. 405. REPORTING REQUIREMENT REDUCTION.**

16 Section 308(c) of title 49, United States Code, is
 17 amended by inserting “even-numbered” after “each”.

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