

Calendar No. 686

106TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 106-345

MARITIME ADMINISTRATION AUTHORIZATION ACT FOR FISCAL YEAR 2001

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2487



JULY 17, 2000.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

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MARITIME ADMINISTRATION AUTHORIZATION ACT FOR FISCAL YEAR 2001

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Mr. MCCAIN, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 2487]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2487) “A bill to authorize appropriations for Fiscal Year 2001 for certain maritime programs of the Department of Transportation”, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The bill as reported by the Committee authorizes appropriations for fiscal year (FY) 2001 for the Maritime Administration (MarAd); amends Title IX of the Merchant Marine Act of 1936 to eliminate the three-year period bulk or breakbulk vessels newly registered under the U.S.-flag must wait in order to carry government-impelled cargo for a one year period; amends the Merchant Marine Act of 1936 to allow the Secretary to scrap obsolete vessels in both domestic and international markets; conveys ownership of the National Defense Reserve Fleet Vessel, *Glacier*, to the Glacier Society for use as museum; requires the Maritime Administration to including the source and intended use of all funding in reports to Congress; amends Public Law 101-115 to recognize National Maritime Enhancement Institutes as if they were University Transportation Centers for purposes of research awards; and requires the Secretary of Transportation to review the funding of maritime research in relation to other modes of transportation.

BACKGROUND AND NEEDS

MarAd administers various U.S. merchant marine support programs within the Department of Transportation (DOT). MarAd is composed of approximately 970 employees—including Ready Reserve Force (RRF) and U.S. Merchant Marine Academy (USMMA). MarAd programs include Operating-Differential Subsidy (ODS), Maritime Security Fleet Program (MSP), Title XI guaranteed loan program, various cargo preference programs, maintenance of the RRF and National Defense Reserve Fleet (NDRF), and operation of the U.S. Merchant Marine Academy (USMMA) in Kings Point, NY.

The committee remains concerned about the appalling condition of physical plant and infrastructure at USMMA. Further, the committee is troubled by the lack of action in completing a facilities master plan that would prioritize repairs and improvements. Absent long term identification of facility needs it is difficult to assess funding requirements. Additionally, the Committee urges MarAd to carefully evaluate the needs of all state maritime school ships with regard to repair and maintenance and make available, within applicable procedures and guidelines, funds to meet those needs.

MarAd's annual discretionary appropriation does not include ODS contract authority costs; permanent, indefinite appropriations for cargo preference costs; RRF/NDRF maintenance funding; or MSP funding. The Committee is concerned that these programs have a large impact on the overall management and performance of MarAd and is seeking to require the reporting of all funding for these programs and any other programs administered by MarAd in annual reporting and budget submissions.

During hearings on the bill, the Committee heard testimony regarding the default of a Title XI loan guarantee and the difficulties faced by MarAd in trying to minimize the loss to the federal government. The Committee recommends that MarAd evaluate carefully all actions it may undertake with regards to Title XI loan guarantee defaults and act to ensure that loss to the federal government is minimized.

Under current law, vessels built or reconstructed in a foreign shipyard must be under U.S. registry for at least three years before being eligible to carry cargo under the Cargo Preference Act of 1954. The same limitation does not apply to vessels that transport military cargoes or Export-Import Bank cargoes reserved to U.S.-flag vessels under the Cargo Preference Act of 1904 or Public Resolution 17, respectively.

The Merchant Marine Act of 1936 (46 U.S.C. App. 1101) mandates that the United States have sufficient vessels to carry a "substantial portion" of all preference cargo (75 percent of government impelled food aid cargo). No dry-bulk vessels for our preference trades have been built in a U.S. shipyard since the federal subsidy for ship construction (CDS) effectively ended in 1981.

The Committee remains concerned about the lack of bulk ship construction in U.S. yards and the low charter rates in our non-preference international dry bulk trades. The Committee believes it is unrealistic to expect that sufficient U.S.-flag dry bulk vessels to meet the demand of our preference trades will be constructed in U.S. shipyards at any time in the foreseeable future.

Further, the Committee believes that while not ideal, this one-year relaxation of the three-year waiting requirement is the best way to ensure that the U.S.-flag dry bulk fleet is of sufficient size/number to carry a “substantial portion” of our preference cargo without any long-term economic disadvantage to U.S. shipyards.

The Committee has diverse views on various Jones Act issues, but all agree that this measure does not affect in any way the U.S.-build requirement contained in the Jones Act. Under every major merchant marine act, Congress has recognized that the foreign trades, where the competition operates foreign-built and government subsidized vessels, should be distinguished from the domestic trades, where the competition operates U.S.-built vessels. Moreover, neither the previous enactment of section 615 of the Merchant Marine Act of 1936, nor the 1997-enacted Maritime Security Program, nor other foreign trade foreign-build permissions have had any spill-over effect on the Jones Act because Jones Act issues were not addressed in those instances. The Committee’s action in reporting S. 2487, therefore, will have no precedential effect on the Committee’s future consideration of Jones Act issues.

The Committee has again chosen to limit the waiver of the three-year waiting period to one year in order to preserve building opportunities over the long term for U.S. shipyards, should the market for construction of new U.S.-built dry bulk ships become competitive at some future time. In the meantime, the Committee has carefully crafted section 3 to enhance job opportunities for U.S. shipbuilders in the near term. The Committee’s bill explicitly provides that non-emergency shipyard repairs and other shipyard work necessary to conform vessels to U.S.-flag standards must be performed in a shipyard located in the United States. Such shipyard repairs and conforming shipyard work will create employment opportunities in domestic yards that otherwise would not exist.

The Committee’s decision to relax temporarily the three year waiting period for new foreign-built vessels to become eligible to carry cargoes under the Cargo Preference Act of 1954 will create additional seagoing billets for U.S. merchant mariners. The acquisition of new, modern dry bulk vessels will substantially improve the efficiency of the U.S.-flag fleet dedicated to the food-aid trade, and result in significant reductions in shipping costs and subsequent substantial savings to U.S. taxpayers. With major savings in transportation costs, appropriations for food-aid programs will purchase more aid, more U.S. farm produce will be delivered, and increased food-aid relief will be possible for the same investment of federal dollars.

LEGISLATIVE HISTORY

S. 2487 was introduced in the Senate on May 1, 2000 by Senator McCain. The bill is cosponsored by Senators Hollings and Inouye. A hearing was held on the MarAd authorization on May 16, 2000. In open executive session on June 15, 2000, the Committee considered S. 2487, and ordered the legislation reported favorably without objection and with an amendment in the nature of a substitute by Senators McCain and Hollings. The amendment in the nature of a substitute conveys ownership of the National Defense Reserve Fleet Vessel, *Glacier*, to the Glacier Society for use as a museum; requires the Maritime Administration to include the source and in-

tended use of all funding in reports to Congress; and requires the Secretary of Transportation to review the funding of maritime research in relation to other modes of transportation. The Committee also approved by voice vote an amendment offered by Senator Lott to increase the authorization of funds for the Title XI loan guarantee program to \$50 million. The House Department of Defense Authorization bill (H.R. 4205) includes provisions similar or identical to S. 2487, as reported, which are within the jurisdiction of the Committee. The Committee anticipates the Senate Armed Services Committee will endorse the provisions of S. 2487, as reported, as the Senate position on the corresponding provisions in the House and Senate Department of Defense Authorization legislation during the conference with the House of Representatives on that legislation, and looks forward to working with the Senate Armed Services Committee to ensure the inclusion of S. 2487.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 28, 2000.

Hon. JOHN MCCAIN,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2487, the Maritime Administration Authorization Act for Fiscal Year 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 2487—Maritime Administration Authorization Act for Fiscal Year 2001

Summary: Assuming appropriation of the amounts authorized by S. 2487, CBO estimates that the federal government would spend about \$80 million, mostly over the next year, to carry out ongoing maritime programs. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 2487 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

S. 2487 would authorize the appropriation of \$80 million for operation and training activities of the Maritime Administration (MARAD) during fiscal year 2001. The bill also would authorize \$54 million for fiscal year 2000 loan guarantees and related administrative expenses, as already authorized under the Merchant Marine Act of 1936. Section 7 of the bill would direct MARAD to con-

duct a study of maritime research and development. The study would examine, among other funding issues, the relative amount of federal funding historically provided to maritime programs as compared to those of other modes of transportation. For the purpose of carrying out this study over the next nine months, the bill would authorize the appropriation of \$100,000. Other provisions of the bill, most of which would require MARAD to complete various studies and reports, would have no significant effect on the federal budget.

Estimated cost to the Federal Government: The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget function 400 (transportation). For this estimate, CBO assumes that the entire amount authorized for MARAD operation and training activities for fiscal year 2001 will be appropriated for that year. The estimate of outlays is based on historical spending patterns for MARAD. Because appropriations for maritime loan guarantees and related administrative costs are already authorized under existing law, the budgetary effects of S. 2487 would be limited to the \$80 million of authorized expenditures for MARAD operations and training programs and the \$100,000 for a new study.

	By fiscal year, in millions of dollars—					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION						
MARAD Spending Under Current Law:						
Budget Authority ¹	73	0	0	0	0	0
Estimated Outlays	82	11	4	0	0	0
Proposed Changes:						
Authorization Level ²	0	80	0	0	0	0
Estimated Outlays	0	68	8	4	0	0
MARAD Spending Under S. 2487:						
Authorization Level ¹	73	80	0	0	0	0
Estimated Outlays	82	79	12	4	0	0

¹The 2000 level is the amount appropriated for that year.

²No amounts are included as proposed changes for loan guarantee subsidies or administrative costs because those amounts are already authorized under current law.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Cost: Deborah Reis. Impact on State, Local, and Tribal Governments: Victoria Heid Hall. Impact on the Private Sector: Natalie Tawil.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

Because S. 2487 does not create any new programs, the legislation will have no additional regulatory impact, and will result in no additional reporting requirements. While S. 2487 does not create any new programs, the legislation will require MarAd to report

on the source and intended use of all funding under its administration. The legislation will have no further effect on the number or types of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

SUMMARY OF MAJOR PROVISIONS

The bill authorizes appropriations for the Maritime Administration for fiscal year 2000 and covers two appropriated accounts: (1) operations and training; and (2) the shipbuilding loan guarantee program authorized by Title XI of the Merchant Marine Act of 1936.

The bill provides \$80.24 million for operations and training programs including \$37.236 million, an increase of \$3.292 million, for deferred capital maintenance at the U.S. Merchant Marine Academy. The Committee is concerned that the physical condition of the Academy poses a health and safety risk to students and faculty, and recommends that MarAd move expeditiously to address the deterioration of the property. In addition, \$50 million is for the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, of loan guarantees authorized by Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), and \$4.179 million is for administrative expenses related to these loan guarantee commitments. Finally, the bill authorizes \$100,000 for MarAd to prepare a report to Congress on the status of research and technology development, and to make recommendations on how MarAd intends to provide and oversee the necessary research to consider the needs of the Maritime Transportation System (MTS). The Committee recognizes the rapidly changing nature of our maritime and intermodal transportation needs, and would encourage long term plans on how to address the changing environment.

The bill also amends current law to provide a one year waiver of the three year period bulk and breakbulk vessels newly registered under the U.S. flag must wait in order to carry Government-impelled cargo. The waiver would be in effect only for one year beginning on the date of enactment. It is essential to provide a window through which some newer vessels may be able to enter the market to transport some of the increased food aid.

Finally, the bill would amend the National Maritime Heritage Act of 1994 and allow the Secretary to scrap obsolete vessels in both domestic and international markets; convey ownership of the National Defense Reserve Fleet Vessel, *Glacier*, to the Glacier Society for use as a museum; requires the Maritime Administration to including the source and intended use of all funding in reports to Congress; amends Public Law 101-115 to recognize National Maritime Enhancement Institutes as if they were University Transportation Centers for purposes of the award of research funds for maritime and intermodal research; and require the Secretary of Transportation to review the funding of maritime research in relation to other modes of transportation.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 states the short title of the proposal, the "Maritime Administration Authorization Act for Fiscal Year 2001".

Section 2. Authorization of appropriations for fiscal year 2001

Section 2 authorizes \$80,240,000 for MarAd operations and training activities, of which \$33,520,000 is authorized for MarAd operations. Operations and training activities include the costs incurred by headquarters and region staff in the administration and direction of the various MarAd programs such as:

- (1) Emergency planning and operations, including administration of the Maritime Security Program agreements.
- (2) Negotiation of agreements, understandings and arrangements to reduce barriers that restrict American access to foreign ports and markets.
- (3) Port, intermodal, and environmental activities.
- (4) Labor, training, and safety activities.
- (5) Administration of the Capital Construction Fund/Construction Reserve Fund.
- (6) Monitoring compliance with cargo reservation statutes.
- (7) Administration of the Operating-Differential Subsidy agreements.

Operations and training funds also include funds for the operation of the United States Merchant Marine Academy (USMMA) at Kings Point, New York, and continuing assistance to the six state maritime academies. Expenses for maritime training at the USMMA include \$37,236,000, an increase of \$3 million, for capital maintenance and expenses, and \$9,484,000 for financial assistance to the state maritime academies.

The USMMA offers a four-year undergraduate, full scholarship program that leads to a Bachelor of Science degree and to a merchant marine license as Third Mate or Third Assistant Engineer or both. In addition, the students are enrolled as midshipmen and are commissioned upon graduation as ensigns in the U.S. Naval Reserve and required to serve for no fewer than six years. Additionally, USMMA graduates are required to maintain licenses as U.S. merchant marine officers for six years, and work as employees on board a U.S. flag vessel or in a maritime related industry or serve five years on active duty with the U.S. armed services.

The state maritime academies program assists states in the training of individuals for service as officers in the U.S. merchant marine. Assistance is provided to participating states (California, Maine, Massachusetts, Michigan, New York, and Texas) in the form of direct payments to the academies, incentive payments to cadets currently enrolled in the Student Incentive Payment (SIP) Program, and funding for the cost of maintenance and repair for MarAd ships provided on loan to the schools for use as training ships.

The Omnibus Appropriations Act for Fiscal Year 1999, P.L. 105-277, established the American Fisheries Act. The American Fisheries Act tasks MarAd with new duties and responsibilities in determining the citizenship of certain fishing vessels. Among other things, the measure designates MarAd as the primary agency re-

sponsible for ensuring that the proper citizenship requirements are adhered to for ownership of vessels 100 feet or greater that have, or are seeking, a fisheries endorsement to their documentation. In enforcing citizenship standards, MarAd will be required to rigorously scrutinize transfers of ownership or control with particular attention to leases, charters, mortgages, and financing arrangements for fishing vessels. Further, MarAd will need to approve qualified trustees to hold mortgages where vessel financing is procured through foreign lenders.

Operations and training funds will also be used to administer the processing of waivers to the U.S.-build requirement of the Jones Act for certain small passenger vessels, enacted in P.L. 105-383, the Coast Guard Authorization Act of 1998.

The section also contains the authorization for the maritime guaranteed loan program that is administered by MarAd under Title XI of the Merchant Marine Act of 1936 (46 U.S.C. App. 1271 et seq.). Title XI authorizes the Secretary of Transportation (authority delegated to the Maritime Administrator) to enter into commitments to guarantee private sector debt financing for the construction or reconstruction of U.S.-flag vessels and export vessels in U.S. shipyards, and for U.S. shipyard modernization and improvement projects. Title XI loan guarantees enable ship owners and shipyards to borrow private sector funds on more favorable terms than might otherwise be available. Government funds are expended only in the event of a default, because the private sector provides total project funding.

Federal accounting procedures enacted in the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) require that estimated costs of potential defaults and administrative costs be appropriated before a loan guarantee commitment may be entered into by the Government. An authorization of \$50,000,000 for the estimated costs of loan guarantee commitments, with an estimated carryover of \$42,000,000, would enable MarAd to provide loan guarantees of \$1,840,000,000 based on a 5 percent loan subsidy rate. The Federal Credit Reform Act of 1990 requires, and MarAd requests, a separate authorization of \$4,179,000 for administrative expenses for the entire Title XI program, to manage both the existing portfolio of loan guarantees and new guarantees.

Section 3. Amendments to Title IX of the Merchant Marine Act of 1936

The section would amend Title IX of the Merchant Marine Act of 1936, as amended, to create a new section 910 eliminating the three-year period bulk or breakbulk vessels (including heavylift vessels) newly registered under the U.S. flag must wait in order to carry government-impelled cargo. This new section would remain in effect for one year from the date of enactment, or until enactment of the Organization for Economic Cooperation and Development (OECD) Agreement on Shipbuilding Subsidies (which would permit new vessels built in OECD countries to immediately carry preference cargoes). Present law requires a vessel that is registered under a foreign flag, or is foreign built or reconstructed in a foreign shipyard to be under U.S. registry for at least three years before the vessel is able to carry cargo reserved to U.S.-flag vessels under the Cargo Preference Act of 1954. This requirement does not apply

to liner vessels that receive operating payments under the Maritime Security Program. Bulk vessels do not qualify for operating payments under the Maritime Security Program and are subject to the three-year wait period.

It is unlikely that a foreign-flag vessel newly transferred to U.S. registry can support itself in U.S. foreign commercial trades during the three-year waiting period due to presently low international charter rates. Thus, there is a barrier to replacement and modernization of the U.S.-flag bulk fleet, which is required by statute to transport 75 percent of agricultural products exported under certain food aid programs. The youngest U.S.-flag self-propelled bulk vessel in foreign trade is 13 years old and shippers of cargo subject to cargo preference sometimes have a difficult time obtaining a U.S.-flag vessel. This proposed amendment provides a limited opportunity for modern foreign vessels to transfer to U.S. registry and to be immediately eligible to carry preference cargoes. In return, the vessels must perform non-emergency shipyard repairs, and other shipyard work necessary to conform the vessel to U.S.-flag standards, in a shipyard of the United States, and such vessels shall not be granted preapproval to leave U.S. registry under section 9(e) of the Shipping Act, 1916, as amended on October 19, 1996.

It is anticipated that this provision will improve the vessel profile of the U.S.-flag dry bulk fleet, add jobs for U.S. merchant mariners, and increase the percentage of U.S. foreign commerce carded in U.S.-flag vessels. These additional modern vessels will increase the competition for carriage of government-impelled cargoes, which could result in substantial cost savings to the U.S. Government.

This section also would amend Section 901(b)(c)(2) of the Merchant Marine Act of 1936, to make the cargo preference year for determining compliance coincide with the Federal Government Fiscal Year. This would simplify record keeping and management of the program without impact to any involved agencies or shippers.

Section 4. Scrapping of certain vessels

Section 4 would require the Secretary of Transportation to focus efforts to scrap obsolete vessels in the National Defense Reserve Fleet on vessels identified as posing the greatest risk to the environment and navigation of our nation's waterways. Further, it would require the Secretary of Transportation along with the Secretary of the Navy, the Administrator of the Environmental Protection Agency (EPA), the Director of the Occupational Health and Safety Administration, and the Secretary of State, after reviewing all alternatives, to develop a long term plan for disposal of obsolete vessels within nine months of enactment.

The section directs the Secretary of Transportation along with the Secretary of the Navy, the Administrator of the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration, and the Secretary of State, to consider all alternatives and available information in developing a disposal plan, including alternative scrapping sites, vessel donations, sinking of vessels in deep water, sinking vessels for development of artificial reefs, the sale of vessels before they become obsolete, the results of the Navy Pilot Scrapping Program (Section 8124, P.L. 105-262), and the

Interagency Ship Scrapping Review Panel report on ship scrapping issued in April of 1998.

The section would also allow for the scrapping of vessels in both the domestic and international market as long as scrapping facilities are able to scrap vessels economically, safely, with minimal impact on the environment, while showing respect for worker safety.

Additionally, Section 4 would amend the National Maritime Heritage Act of 1994 by extending the deadline for disposal of all obsolete vessels by five years. This is the second extension of the deadline, but is one that is required due to the inaction of MarAd, the EPA, and the Department of State in addressing the problems associated with scrapping since enactment of the Heritage Act in 1994. The additional time is also needed to allow the domestic shipbuilding industry to adjust its activities to meet the need to scrap in the domestic market.

The section would further amend the Heritage Act by removing the requirement that obsolete vessels be scrapped at a profit to the federal government and replacing it with a requirement that vessels be scrapped in the most cost effective manner to the United States taking into account the need for disposal, the environment, and safety concerns.

Finally, Section 4 would allow the Secretary of Transportation to use funds made available for the care and maintenance of the National Defense Reserve Fleet for the scrapping of obsolete vessels and require a report to Congress biannually on the progress of disposal of obsolete vessels.

Section 5. Reporting of administered and oversight funds

Section 5 would require MarAd to include in its annual estimated budget and its annual report to Congress the amount, source, intended use, and nature of any funding for programs under MarAd's jurisdiction or administered by MarAd (other than funds appropriated to the Administration or to the Secretary of Transportation) for use by MarAd.

MarAd does not currently include in its annual budget submission information relating to programs such as management of the Ready Reserve Fleet that are funded through the Department of Defense. While these activities are vital to our nation's defense transportations needs, MarAd is not currently required to provide any information on past activities or justification for future needs in relation to other programs under its jurisdiction.

Section 6. Maritime intermodal research

Section 6 would allow the Secretary of Transportation to make grants for maritime and maritime intermodal research to National Maritime Enhancement Institutes. This section also requires the Secretary to advise the Maritime Administration concerning the funds available for grants through the Research and Special Programs Administration and to consult with MarAd on the making of the grants.

Under current law (Section 5505 of Public Law 105-178), the Secretary of Transportation, through delegation to the Research and Special Programs Agency, cannot make grants to National Maritime Enhancement Institutes. This provision would authorize the Secretary to award research grants to National Maritime En-

hancement Institutes, as if they were University Transportation Centers.

Section 7. Maritime research and technology development

Section 7 authorizes \$100,000 for the Secretary of Transportation to prepare a report to Congress on the status of research and technology development in the five different modes of transportation. MarAd will be required to report on federal funds spent on research for each mode of transportation and provide a description of current and future research proposals for our nation's Maritime Transportation System.

Section 8. Authority to convey National Defense Reserve Fleet vessel, Glacier

Section 8 would authorize the Secretary of Transportation to convey the National Defense Reserve Fleet vessel, U.S.S. *Glacier* (United States official number AGB-4), to the Glacier Society, Inc., for use as a museum. This provision also specifies the same terms of conveyance and required conditions typically required by the Committee for Government vessel conveyance authorizations.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 10. ARMED FORCES

SUBTITLE A. GENERAL MILITARY LAW

PART IV. SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 131. PLANNING AND COORDINATION

§ 2218. National Defense Sealift Fund

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “National Defense Sealift Fund”.

(b) ADMINISTRATION OF FUND.—The Secretary of Defense shall administer the Fund consistent with the provisions of this section.

(c) FUND PURPOSES.—

(1) Funds in the National Defense Sealift Fund shall be available for obligation and expenditure only for the following purposes:

(A) Construction (including design of vessels), purchase, alteration, and conversion of Department of Defense sealift vessels.

(B) Operation, maintenance, and lease or charter of Department of Defense vessels for national defense purposes.

(C) Installation and maintenance of defense features for national defense purposes on privately owned and operated vessels that are constructed in the United States and documented under the laws of the United States.

(D) Research and development relating to national defense sealift.

(E) Expenses for maintaining *and scrapping the vessels* of the National Defense Reserve Fleet under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the costs of acquisition of vessels for, and alteration and conversion of vessels in (or to be placed in), the fleet, but only for vessels built in United States shipyards.

(2) Funds in the National Defense Sealift Fund may be obligated or expended only in amounts authorized by law.

(3) Funds obligated and expended for a purpose set forth in subparagraph (B) or (D) of paragraph (1) may be derived only from funds deposited in the National Defense Sealift Fund pursuant to subsection (d)(1).

(d) DEPOSITS.—There shall be deposited in the Fund the following:

(1) All funds appropriated to the Department of Defense for fiscal years after fiscal year 1993 for—

(A) construction (including design of vessels), purchase, alteration, and conversion of national defense sealift vessels;

(B) operations, maintenance, and lease or charter of national defense sealift vessels;

(C) installation and maintenance of defense features for national defense purposes on privately owned and operated vessels; and

(D) research and development relating to national defense sealift.

(2) All receipts from the disposition of national defense sealift vessels, excluding receipts from the sale, exchange, or scrapping of National Defense Reserve Fleet vessels under sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund.

(3) All receipts from the charter of vessels under section 1424(c) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 7291 note).

(e) ACCEPTANCE OF SUPPORT.—

(1) The Secretary of Defense may accept from any person, foreign government, or international organization any contribution of money, personal property (excluding vessels), or assistance in kind for support of the sealift functions of the Department of Defense.

(2) Any contribution of property accepted under paragraph (1) may be retained and used by the Department of Defense or disposed of in accordance with procedures prescribed by the Secretary of Defense.

(3) The Secretary of Defense shall deposit in the Fund money and receipts from the disposition of any property accepted under paragraph (1).

(f) LIMITATIONS.—

(1) Not more than a total of five vessels built in foreign ship yards may be purchased with funds in the National Defense Sealift Fund pursuant to subsection (c)(1).

(2) Construction, alteration, or conversion of vessels with funds in the National Defense Sealift Fund pursuant to subsection (c)(1) shall be conducted in United States ship yards and shall be subject to section 1424(b) of Public Law 101-510 (104 Stat. 1683).

(g) EXPIRATION OF FUNDS AFTER 5 YEARS.—No part of an appropriation that is deposited in the National Defense Sealift Fund pursuant to subsection (d)(1) shall remain available for obligation more than five years after the end of fiscal year for which appropriated except to the extent specifically provided by law.

(h) BUDGET REQUESTS.—Budget requests submitted to Congress for the National Defense Sealift Fund shall separately identify—

(1) the amount requested for programs, projects, and activities for construction (including design of vessels), purchase, alteration, and conversion of national defense sealift vessels;

(2) the amount requested for programs, projects, and activities for operation, maintenance, and lease or charter of national defense sealift vessels;

(3) the amount requested for programs, projects, and activities for installation and maintenance of defense features for national defense purposes on privately owned and operated vessels that are constructed in the United States and documented under the laws of the United States; and

(4) the amount requested for programs, projects, and activities for research and development relating to national defense sealift.

(i) TITLE OR MANAGEMENT OF VESSELS.—Nothing in this section (other than subsection (c)(1)(E)) shall be construed to affect or modify title to, management of, or funding responsibilities for, any vessel of the National Defense Reserve Fleet, or assigned to the Ready Reserve Force component of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744).

(j) AUTHORITY FOR CERTAIN USE OF FUNDS.—Upon a determination by the Secretary of Defense that such action serves the national defense interest and after consultation with the congressional defense committees, the Secretary may use funds available for obligation or expenditure for a purpose specified under subsection (c)(1) (A), (B), (C), and (D) for any purpose under subsection (c)(1).

(k) CONTRACTS FOR INCORPORATION OF DEFENSE FEATURES IN COMMERCIAL VESSELS.—

(1) The head of an agency may enter into a contract with a company submitting an offer for that company to install and maintain defense features for national defense purposes in one or more commercial vessels owned or controlled by that company in accordance with the purpose for which funds in the National Defense Sealift Fund are available under subsection (c)(1)(C). The head of the agency may enter into such a contract only after the head of the agency makes a determination of the economic soundness of the offer.

(2) The head of an agency may make advance payments to the contractor under a contract under paragraph (1) in a lump sum, in annual payments, or in a combination thereof for costs

associated with the installation and maintenance of the defense features on a vessel covered by the contract, as follows:

- (A) The costs to build, procure, and install a defense feature in the vessel.
- (B) The costs to periodically maintain and test any defense feature on the vessel.
- (C) Any increased costs of operation or any loss of revenue attributable to the installation or maintenance of any defense feature on the vessel.
- (D) Any additional costs associated with the terms and conditions of the contract.

(3) For any contract under paragraph (1) under which the United States makes advance payments under paragraph (2) for the costs associated with installation or maintenance of any defense feature on a commercial vessel, the contractor shall provide to the United States such security interests in the vessel, by way of a preferred mortgage under section 31322 of title 46 or otherwise, as the head of the agency may prescribe in order to adequately protect the United States against loss for the total amount of those costs.

(4) Each contract entered into under this subsection shall—

- (A) set forth terms and conditions under which, so long as a vessel covered by the contract is owned or controlled by the contractor, the contractor is to operate the vessel for the Department of Defense notwithstanding any other contract or commitment of that contractor; and
- (B) provide that the contractor operating the vessel for the Department of Defense shall be paid for that operation at fair and reasonable rates.

(5) The head of an agency may not delegate authority under this subsection to any officer or employee in a position below the level of head of a procuring activity.

(1) DEFINITIONS.—In this section:

(1) The term “Fund” means the National Defense Sealift Fund established by subsection (a).

(2) The term “Department of Defense sealift vessel” means any ship owned, operated, controlled, or chartered by the Department of Defense that is any of the following:

- (A) A fast sealift ship, including any vessel in the Fast Sealift Program established under section 1424 of Public Law 101–510 (104 Stat. 1683) [10 USCS § 7291 note].
- (B) A maritime prepositioning ship.
- (C) An afloat prepositioning ship.
- (D) An aviation maintenance support ship.
- (E) A hospital ship.
- (F) A strategic sealift ship.
- (G) A combat logistics force ship.
- (H) A maritime prepositioned ship.
- (I) Any other auxiliary support vessel.

(3) The term “national defense sealift vessel” means—

- (A) a Department of Defense sealift vessel; and
- (B) a national defense reserve fleet vessel, including a vessel in the Ready Reserve Force maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744).

- (4) The term “congressional defense committees” means—
- (A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and
 - (B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.
- (5) The term “head of an agency” has the meaning given that term in section 2302(1) of this title.

NATIONAL MARITIME HERITAGE ACT OF 1994

SEC. 6. FUNDING.

[16 U.S.C. 5405]

(a) AVAILABILITY OF FUNDS FROM SALE AND SCRAPPING OF OBSOLETE VESSELS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the amount of funds credited in a fiscal year to the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (46 App. U.S.C. 1241a), that is attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that are scrapped or sold under section 508 or 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 or 1160(i)) shall be available until expended as follows:

(A) 50 percent shall be available to the Administrator of the Maritime Administration for such acquisition, maintenance, repair, reconditioning, or improvement of vessels in the National Defense Reserve Fleet as is authorized under other Federal law.

(B) 25 percent shall be available to the Administrator of the Maritime Administration for the payment or reimbursement of expenses incurred by or on behalf of State maritime academies or the United States Merchant Marine Academy for facility and training ship maintenance, repair, and modernization, and for the purchase of simulators and fuel.

(C) The remainder shall be available to the Secretary to carry out the Program, as provided in subsection (b).

(2) APPLICATION.—Paragraph (1) does not apply to amounts credited to the Vessel Operations Revolving Fund before July 1, 1994.

(b) USE OF AMOUNTS FOR PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (2), of amounts available each fiscal year for the Program under subsection (a)(1)(C)—

(A) $\frac{1}{2}$ shall be used for grants under section 4(b); and

(B) $\frac{1}{2}$ shall be used for grants under section 4(c).

(2) USE FOR INTERIM PROJECTS.—Amounts available for the Program under subsection (a)(1)(C) that are the proceeds of any of the first 8 obsolete vessels in the National Defense Reserve Fleet that are sold or scrapped after July 1, 1994, under section 508 or 510(i) of the Merchant Marine Act, 1936 (46 U.S.C. [App.] 1158 or 1160(i)) are available to the Secretary for grants for interim projects approved under section 4(j) of this Act.

(3) ADMINISTRATIVE EXPENSES.—

(A) IN GENERAL.—Not more than 15 percent or \$500,000, whichever is less, of the amount available for the Program under subsection (a)(1)(C) for a fiscal year may be used for expenses of administering the Program.

(B) ALLOCATION.—Of the amount available under subparagraph (A) for a fiscal year—

(i) $\frac{1}{2}$ shall be allocated to the National Trust for expenses incurred in administering grants under section 4(b); and

(ii) $\frac{1}{2}$ shall be allocated as appropriate by the Secretary to the National Park Service and participating State Historic Preservation Officers.

(c) DISPOSALS OF VESSELS.—

(1) REQUIREMENT.—The Secretary of Transportation shall dispose of all vessels described in paragraph (2)—

(A) by September 30, ~~2001;~~ 2006;

~~[(B) in a manner that maximizes the return on the vessels to the United States; and]~~

~~(B) in the most cost effective manner to the United States taking into account the need for disposal, the environment, and safety concerns; and~~

(C) in accordance with the plan of the Department of Transportation for disposal of those vessels and requirements under sections 508 and 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(i)).

(2) VESSELS DESCRIBED.—The vessels referred to in paragraph (1) are the vessels in the National Defense Reserve Fleet after July 1, 1994, that—

(A) are not assigned to the Ready Reserve Force component of that fleet; and

(B) are not specifically authorized or required by statute to be used for a particular purpose.

(d) TREATMENT OF AMOUNTS AVAILABLE.—Amounts available under this section shall not be considered in any determination of the amounts available to the Department of the Interior.

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[46 U.S.C. APP. 1121–2]

NATIONAL MARITIME ENHANCEMENT INSTITUTES

SEC. 8. (a) The Secretary of Transportation may designate National Maritime Enhancement Institutes.

(b) Activities undertaken by such an Institute may include—

(1) conducting research concerning methods for improving the performance of maritime industries;

(2) enhancing the competitiveness of domestic maritime industries in international trade;

(3) forecasting trends in maritime trade;

(4) assessing technological advancements;

(5) developing management initiatives and training;

(6) analyzing economic and operational impacts of regulatory policies and international negotiations or agreements pending before international bodies;

(7) assessing the compatibility of domestic maritime infrastructure systems with overseas transport systems;

- (8) fostering innovations in maritime transportation pricing; and
- (9) improving maritime economics and finance.
- (c) An institution seeking designation as a National Maritime Enhancement Institute shall submit an application under regulations prescribed by the Secretary.
- (d) The Secretary shall designate an Institute under this section on the basis of the following criteria:
- (1) the demonstrated research and extension resources available to the designee for carrying out the activities specified in subsection (b);
 - (2) the capability of the designee to provide leadership in making national and regional contributions to the solution of both long-range and immediate problems of the domestic maritime industry;
 - (3) the existence of an established program of the designee encompassing research and training directed to enhancing maritime industries;
 - (4) the demonstrated ability of the designee to assemble and evaluate pertinent information from national and international sources and to disseminate results of maritime industry research and educational programs through a continuing education program; and
 - (5) the qualification of the designee as a nonprofit institution of higher learning.
- (e) The Secretary may make awards on an equal matching basis to an institute designated under subsection (a) from amounts appropriated. The aggregate annual amount of the Federal share of the awards by the Secretary shall not exceed \$500,000.
- (f) *UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—*
- (1) *IN GENERAL.—The Secretary may make a grant under section 5505 of title 49, United States Code, to an institute designated under subsection (a) for maritime and maritime intermodal research under that section as if the institute were a university transportation center.*
 - (2) *ADVICE AND CONSULTATION OF MARAD.—In making a grant under the authority of paragraph (1), the Secretary, through the Research and Special Programs Administration, shall advise the Maritime Administration concerning the availability of funds for the grants, and consult with the Administration on the making of the grants.*

TITLE 46. MERCHANT MARINE ACT, 1936

SHIPMENT REQUIREMENTS FOR CERTAIN EXPORTS SPONSORED BY DEPARTMENT OF AGRICULTURE

[46 U.S.C. APP. 1241F]

SEC. 901b. (a) MINIMUM REQUIREMENT RESPECTING GROSS TONNAGE TRANSPORTED IN UNITED STATES-FLAG COMMERCIAL VESSELS; IMPLEMENTATION.—

- (1) In addition to the requirement for United States-flag carriage of a percentage of gross tonnage imposed by section 901(b)(1) of this Act, 25 percent of the gross tonnage of agricultural commodities or the products thereof specified in sub-

section (b) shall be transported on United States-flag commercial vessels.

(2) In order to achieve an orderly and efficient implementation of the requirement of paragraph (1)—

(A) an additional quantity equal to 10 percent of the gross tonnage referred to in paragraph (1) shall be transported in United States-flag vessels in calendar year 1986;

(B) an additional quantity equal to 20 percent of the gross tonnage shall be transported in such vessels in calendar year 1987; and

(C) an additional quantity equal to 25 percent of the gross tonnage shall be transported in such vessels in calendar year 1988 and in each calendar year thereafter.

(b) COVERED EXPORT ACTIVITY.—This section shall apply to any export activity of the Commodity Credit Corporation or the Secretary of Agriculture—

(1) carried out under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(2) carried out under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(3) carried out under the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f-1 et seq.);

(4) under which agricultural commodities or the products thereof are—

(A) donated through foreign governments or agencies, private or public, including intergovernmental organizations; or

(B) sold for foreign currencies or for dollars on credit terms of more than ten years;

(5) under which agricultural commodities or the products thereof are made available for emergency food relief at less than prevailing world market prices;

(6) under which a cash grant is made directly or through an intermediary to a foreign purchaser for the purpose of enabling the purchaser to obtain United States agricultural commodities or the products thereof in an amount greater than the difference between the prevailing world market price and the United States market price, free along side vessel at United States port; or

(7) under which agricultural commodities owned or controlled by or under loan from the Commodity Credit Corporation are exchanged or bartered for materials, goods, equipment, or services produced in foreign countries, other than export activities described in section 901a(5).

(c) TERMS AND CONDITIONS.—

(1) The requirement for United States-flag transportation imposed by subsection (a) shall be subject to the same terms and conditions as provided in section 901(b) of this Act.

(2) In order to provide for effective and equitable administration of the cargo preference laws the calendar year for the purpose of compliance with minimum percentage requirements shall be for 12 month periods commencing April 1, **[1986.]** *1986, the 18-month period commencing April 1, 2000, and the 12-month period beginning on the first day of October in the year 2001 and each year thereafter.*

(3)(A) Subject to subparagraph (B), in administering sections 901(b) and 901b (46 U.S.C. App. 1241(b) and 1241f), and, subject to subparagraph (B) of this paragraph, consistent with those sections, the Commodity Credit Corporation shall take such steps as may be necessary and practicable without detriment to any port range to allocate, on the principle of lowest landed cost without regard to the country of documentation of the vessel, 25 percent of the bagged, processed, or fortified commodities furnished pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1751 et seq.).

(B) In carrying out this paragraph, there shall first be calculated the allocation of 100 percent of the quantity to be procured on an overall lowest landed cost basis without regard to the country of documentation of the vessel and there shall be allocated to the Great Lakes port range any cargoes for which it has the lowest landed cost under that calculation. The requirements for United States-flag transportation under section 901(b) and this section shall not apply to commodities allocated under subparagraph (A) to the Great Lakes port range, and commodities allocated under subparagraph (A) to that port range may not be reallocated or diverted to another port range to meet those requirements to the extent that the total tonnage of commodities to which subparagraph (A) applies that is furnished and transported from the Great Lakes port range is less than 25 percent of the total annual tonnage of such commodities furnished.

(C) In awarding any contract for the transportation by vessel of commodities from the Great Lakes port range pursuant to an export activity referred to in subsection (b), each agency or instrumentality—

(i) shall consider expressions of freight interest for any vessel from a vessel operator who meets reasonable requirements for financial and operational integrity; and

(ii) may not deny award of the contract to a person based on the type of vessel on which the transportation would be provided (including on the basis that the transportation would not be provided on a liner vessel (as that term is used in the Shipping Act of 1984, as in effect on November 14, 1995)), if the person otherwise satisfies reasonable requirements for financial and operational integrity.

(4) Any determination of nonavailability of United States-flag vessels resulting from the application of this subsection shall not reduce the gross tonnage of commodities required by sections 901(b) and 901b to be transported on United States-flag vessels.

(d) EXPORT ACTIVITY DEFINED.—As used in subsection (b), the term “export activity” does not include inspection or weighing activities, other activities carried out for health or safety purposes, or technical assistance provided in the handling of commercial transactions.

(e) PREVAILING WORLD MARKET PRICE.—

(1) The prevailing world market price as to agricultural commodities or the products thereof shall be determined under sec-

tions 901a through 901d in accordance with procedures established by the Secretary of Agriculture. The Secretary shall prescribe such procedures by regulation, with notice and opportunity for public comment, pursuant to section 553 of title 5, United States Code.

(2) In the event that a determination of the prevailing world market price of any other type of materials, goods, equipment, or service is required in order to determine whether a barter or exchange transaction is subject to subsection (b)(6) or (b)(7), such determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate Federal agencies.

SEC. 910. DOCUMENTATION OF CERTAIN DRY CARGO VESSELS.

(a) *IN GENERAL.*—*The restrictions of section 901(b)(1) of this Act concerning a vessel built in a foreign country shall not apply to a newly constructed drybulk or breakbulk vessel over 7,500 deadweight tons that has been delivered from a foreign shipyard or contracted for construction in a foreign shipyard before the earlier of—*

(1) *the date that is 1 year after the date of enactment of the Maritime Administration Authorization Act for Fiscal Year 2001; or*

(2) *the effective date of the OECD Shipbuilding Trade Agreement Act.*

(b) *COMPLIANCE WITH CERTAIN U.S.-BUILD REQUIREMENTS.*—*A vessel timely contracted for or delivered pursuant to this section and documented under the laws of the United States shall be deemed to have been United-States built for purposes of sections 901(b) and 901b of this Act if—*

(1) *following delivery by a foreign shipyard, the vessel has any additional shipyard work necessary to receive its initial Coast Guard certificate of inspection performed in a United States shipyard;*

(2) *the vessel is not documented in another country before being documented under the laws of the United States;*

(3) *the vessel complies with the same inspection standards set forth for ocean common carriers in section 1137 of the Coast Guard Authorization Act of 1996 (46 U.S.C. App. 1187 note); and*

(4) *actual delivery of a vessel contracted for construction takes place on or before the 3-year anniversary of the date of the contract to construct the vessel.*

(c) *SECTION 12106(e) OF TITLE 46.*—*Section 12106(e) of title 46, United States Code, shall not apply to a vessel built pursuant to this section.*