

104TH CONGRESS
1ST SESSION

S. 1139

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

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”.

6 **TITLE I—MARITIME SECURITY**

7 **SEC. 101. MARITIME SECURITY PROGRAM.**

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

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

3 “TITLE VI—VESSEL OPERATING ASSISTANCE
4 PROGRAMS

5 “Subtitle A—Operating-Differential Subsidy Program”;
6 and

7 (2) by adding at the end the following new sub-
8 title:

9 “Subtitle B—Maritime Security Fleet Program
10 “ESTABLISHMENT OF FLEET

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

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

22 “(1)(A) is operated by a person in that person’s
23 capacity as an ocean common carrier (as that term
24 is used in the Shipping Act of 1984 (46 U.S.C. App.
25 1701 et seq.));

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

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

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

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

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

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

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

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

22 except that the Secretary of Transportation may
23 waive the application of clause (ii) if the Secretary,
24 in consultation with the Secretary of Defense, deter-
25 mines that the waiver is in the national interest; or

1 “(B) it is not a United States-documented ves-
2 sel, but the owner of the vessel has demonstrated an
3 intent to have the vessel documented under chapter
4 121 of title 46, United States Code, if it is included
5 in the Fleet, and the vessel will be less than 10
6 years of age on the date of that documentation; and

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

14 “OPERATING AGREEMENTS

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

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

4 “(1) the vessel—

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

10 “(B) shall not otherwise be operated in the
11 coastwise trade; and

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

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

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

24 “(1) EFFECTIVENESS.—The Secretary of
25 Transportation may enter into an operating agree-

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

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

22 “(e) CERTIFICATION REQUIRED FOR PAYMENT.—As
23 a condition of receiving payment under this section for a
24 fiscal year for a vessel, the owner or operator of the vessel
25 shall certify, in accordance with regulations issued by the

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

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

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

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

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

22 “(3) more than 25 years of age, except that the
23 Secretary may make such payments for a LASH
24 vessel for any day for which the vessel is more than
25 25 years of age if that vessel—

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

2 “(B) is modernized before it is 25 years of

3 age, and

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

5 “(h) PAYMENTS.—With respect to payments under

6 this subtitle for a vessel included in an operating agree-

7 ment, the Secretary of Transportation—

8 “(1) except as provided in paragraph (2), shall

9 not reduce any payment for the operation of a vessel

10 to carry military or other preference cargoes under

11 section 2631 of title 10, United States Code, the Act

12 of March 26, 1934 (46 U.S.C. App. 1241–1), sec-

13 tion 901(a), 901(b), or 901b of this Act, or any

14 other cargo preference law of the United States;

15 “(2) shall not make any payment for any day

16 that a vessel is engaged in transporting more than

17 7,500 tons of civilian bulk preference cargoes pursu-

18 ant to section 901(a), 901(b), or 901b that is bulk

19 cargo; and

20 “(3) shall make a pro rata reduction in pay-

21 ment for each day less than 320 in a fiscal year that

22 a vessel covered by an operating agreement is not

23 operated in accordance with subsection (b)(1), with

24 days during which the vessel is drydocked or under-

1 going survey, inspection, or repair considered to be
2 days on which the vessel is operated.

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

7 “(1) VESSELS OWNED BY CITIZENS.—

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

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

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

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

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

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

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

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

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

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

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

24 “(2) OTHER VESSELS OWNED BY CITIZENS AND
25 GOVERNMENT CONTRACTORS.—To the extent that

1 amounts are available after applying paragraph (1),
2 any vessel that is owned and operated by a person
3 who is—

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

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

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

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

19 “(j) TRANSFER OF OPERATING AGREEMENTS.—A
20 contractor under an operating agreement may transfer the
21 agreement (including all rights and obligations under the
22 agreement) to any person eligible to enter into that operat-
23 ing agreement under this subtitle after notification of the
24 Secretary, unless the transfer is disapproved by the Sec-
25 retary within 90 days after the date of that notification.

1 A person to whom an operating agreement is transferred
2 may receive payments from the Secretary under the agree-
3 ment only if each vessel to be included in the agreement
4 after the transfer is an eligible vessel under section
5 651(b).

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

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

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

17 “(l) PROCEDURE FOR CONSIDERING APPLICATION;
18 EFFECTIVE DATE FOR CERTAIN VESSELS.—

19 “(1) PROCEDURES.—No later than 30 days
20 after the date of enactment of the Maritime Reform
21 and Security Act of 1995, the Secretary shall accept
22 applications for enrollment of vessels in the Fleet
23 and, within 90 days after receipt of an application
24 for enrollment of a vessel in the Fleet, the Secretary
25 shall enter into an operating agreement with the ap-

1 plicant or provide in writing the reason for denial of
2 that application.

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

14 “(m) EARLY TERMINATION.—An operating agree-
15 ment under this subtitle shall terminate on a date speci-
16 fied by the contractor if the contractor notifies the Sec-
17 retary, by not later than 60 days before the effective date
18 of the termination, that the contractor intends to termi-
19 nate the agreement. Vessels included in an operating
20 agreement terminated under this subsection shall remain
21 documented under chapter 121 of title 46, United States
22 Code, until the date the operating agreement would have
23 terminated according to its terms. A contractor who termi-
24 nates an operating agreement pursuant to this subsection
25 shall continue to be bound by the provisions of section 653

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

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

1 register such vessel under a foreign registry deemed ac-
2 ceptable by the Secretary of Transportation, notwith-
3 standing any other provision of law. If section 902 is ap-
4 plicable to such vessel after registry under such a registry,
5 the vessel is available to be requisitioned by the Secretary
6 of Transportation pursuant to section 902.

7 “(o) AWARD OF OPERATING AGREEMENTS.—

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

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

1 eligible vessels in the priority for which timely appli-
2 cations have been made as the amount of appropria-
3 tions available for operating agreements for eligible
4 vessels in the priority bears to the amount of appro-
5 priations necessary for operating agreements for all
6 eligible vessels in the priority.

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

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

20 “(p) NOTICE TO UNITED STATES SHIPBUILDERS RE-
21 QUIRED.—The Secretary shall include in any operating
22 agreement under this subtitle a requirement that the con-
23 tractor under the agreement shall, by not later than 30
24 days after soliciting any bid or offer for the construction
25 of any vessel in a foreign shipyard and before entering

1 into a contract for construction of a vessel in a foreign
2 shipyard, provide notice of the intent of the contractor to
3 enter into such a contract to the Secretary of Transpor-
4 tation. The Secretary shall, by appropriate means, inform
5 shipyards in the United States capable of constructing the
6 vessel of such notice.

7 “NATIONAL SECURITY REQUIREMENTS

8 “SEC. 653. (a) EMERGENCY PREPAREDNESS AGREE-
9 MENT.—

10 “(1) REQUIREMENT TO ENTER AGREEMENT.—

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

23 “(2) TERMS OF AGREEMENT.—An Emergency
24 Preparedness Agreement under this section shall re-
25 quire that upon a request by the Secretary of De-
26 fense during time of war or national emergency, an

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

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

23 “(c) COMPENSATION.—

24 “(1) IN GENERAL.—The Secretary of Transpor-
25 tation, in consultation with the Secretary of Defense,

1 shall provide in each Emergency Preparedness
2 Agreement for fair and reasonable compensation for
3 all commercial transportation resources, including
4 services, provided pursuant to this section.

5 “(2) SPECIFIC REQUIREMENTS.—Compensation
6 under this subsection—

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

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

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

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

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

23 “(d) TEMPORARY REPLACEMENT VESSELS.—Not-
24 withstanding any other provision of this subtitle or of
25 other law to the contrary—

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

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

15 “(e) REDELIVERY AND LIABILITY OF UNITED
16 STATES FOR DAMAGES.—

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

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

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

19 “DEFINITIONS

20 “SEC. 654. In this subtitle:

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

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

1 Transportation has determined, before the date of enact-
2 ment of the Maritime Reform and Security Act of 1995,
3 that it is in the public interest to grant such financial aid
4 for the operation of such vessel.”

5 (b) WIND-UP OF PROGRAM.—Subtitle A of such Act
6 (46 U.S.C. App. 1171 et seq.), as designated by the
7 amendment made by section 2(1), is further amended by
8 adding at the end the following new section:

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

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

21 “(c) The essential service requirements of section
22 601(a) and 603(b), and the provisions of sections 605(c)
23 and 809(a), shall not apply to the operating-differential
24 subsidy program under this subtitle effective upon the ear-
25 lier of—

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

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

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

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

22 “(B) the vessel is included in an operating
23 agreement under subtitle B, and the Secretary ap-
24 proves the replacement of such vessel with a com-

1 parable vessel for inclusion in the Maritime Security
2 Fleet established under subtitle B.

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

5 **SEC. 103. NONCONTIGUOUS DOMESTIC TRADES.**

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

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

19 (B) the service sought to be provided by the
20 contractor or related party—

21 (i) would result in unfair competition to
22 any other person operating vessels in such non-
23 contiguous domestic trade, or

24 (ii) would be contrary to the objects and
25 policy of this Act.

1 (2) For purposes of this subsection, “written permis-
2 sion of the Secretary” means permission which states the
3 capacity offered, the number and frequency of sailings,
4 and the domestic ports called, and which is granted follow-
5 ing—

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

12 (B) holding of a hearing on the application
13 under section 554 of title 5, United States Code, in
14 which every person, firm or corporation having any
15 interest in the application shall be permitted to in-
16 tervene and be heard; and

17 (C) final decision on the application by the Sec-
18 retary within 120 days following conclusion of such
19 hearing.

20 (b) Subsection (a) shall not apply in any way to provi-
21 sion by a contractor of service within the level of service
22 provided by that contractor as of the date established by
23 subsection (c) or to provision of service permitted by sub-
24 section (d).

1 (c) The date referred to in subsection (b) shall be
2 August 9, 1995, provided, however, that with respect to
3 tug and barge service to Alaska the date referred to in
4 subsection (b) shall be July 1, 1992.

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

11 (e)(1) A person applying for award of an agreement
12 under this subtitle shall include with the application a de-
13 scription of the level of service provided by that person
14 in each noncontiguous domestic trade served as of the date
15 applicable under subsection (c). The application also shall
16 include, for each such noncontiguous domestic trade: a list
17 of vessels operated by that person in such trade, their con-
18 tainer carrying capacity expressed in twenty-foot equiva-
19 lent units (TEUs) or other carrying capacity, the itinerary
20 for each such vessel, and such other information as the
21 Secretary may require by regulation. Such description and
22 information shall be made available to the public. Within
23 15 days of the date of an application for an agreement
24 by a person seeking to provide service pursuant to sub-
25 sections (b) and (c) of this section, the Secretary shall

1 cause to be published in the Federal Register notice of
2 such description, along with a request for public comment
3 thereon. Comments on such description shall be submitted
4 to the Secretary within 30 days of publication in the Fed-
5 eral Register. Within 15 days after receipt of comments,
6 the Secretary shall issue a determination in writing either
7 accepting, in whole or part, or rejecting use of the appli-
8 cant's description to establish the level of service provided
9 as of the date applicable under subsection (e), provided
10 that notwithstanding the provisions of this subsection,
11 processing of the application for an award of an agreement
12 shall not be suspended or delayed during the time in which
13 comments may be submitted with respect to the deter-
14 mination or during the time prior to issuance by the Sec-
15 retary of the required determination, and provided fur-
16 ther, that if the Secretary does not make the determina-
17 tion required by this paragraph within the time provided
18 by this paragraph, the description of the level of service
19 provided by the applicant shall be deemed to be the level
20 of service provided as of the applicable date until such
21 time as the Secretary makes the determination.

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

24 (A) An application shall be filed with the Sec-
25 retary which shall state the increase in capacity

1 sought to be offered, a description of the means by
2 which such additional capacity would be provided,
3 the basis for applicant's position that such increase
4 in capacity would be in proportion to or less than
5 the increase in real gross product of the relevant
6 noncontiguous State or Commonwealth since the ap-
7 plicable date established by subsection (c), and such
8 information as the Secretary may require so that the
9 Secretary may accurately determine such increase in
10 real gross product of the relevant noncontiguous
11 State or Commonwealth.

12 (B) Such increase in capacity sought by appli-
13 cant and such information shall be made available to
14 the public.

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

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

23 (E) Within 15 days after receipt of comments,
24 the Secretary shall issue a determination in writing
25 either accepting, in whole or part, or rejecting, the

1 increase in capacity sought by the applicant as being
2 in proportion to or less than the increase in real
3 gross product of the relevant noncontiguous State or
4 Commonwealth since the applicable date established
5 by subsection (c), provided that, notwithstanding the
6 provisions of this section, if the Secretary does not
7 make the determination required by this paragraph
8 within the time provided by this paragraph, the in-
9 crease in capacity sought by applicant shall be per-
10 mitted as being in proportion to or less than such
11 increase in real gross product until such time as the
12 Secretary makes the determination.

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

20 (g) Notwithstanding any other provision of this sub-
21 title, the Secretary may issue temporary permission for
22 any United States citizen, as that term is defined in sec-
23 tion 2 of the Shipping Act, 1916, to provide service to
24 a noncontiguous State or Commonwealth upon the request
25 of the Governor of such noncontiguous State or Common-

1 wealth, in circumstances where an Act of God, a declara-
2 tion of war or national emergency, or any other condition
3 occurs that prevents ocean transportation service to such
4 noncontiguous State or Commonwealth from being pro-
5 vided by persons currently providing such service. Such
6 temporary permission shall expire 90 days from date of
7 grant, unless extended by the Secretary upon written re-
8 quest of the Governor of such State or Commonwealth.

9 (h) As used in this section:

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

12 (A) with respect to service other than serv-
13 ice described in (B), the total annual capacity
14 provided by the contractor in that trade for the
15 12 calendar months preceding that date, pro-
16 vided that, with respect to unscheduled, con-
17 tract carrier tug and barge service between
18 points in Alaska south of the Arctic Circle and
19 points in the contiguous 48 States, the level of
20 service provided by a contractor shall include
21 100 percent of the capacity of the equipment
22 dedicated to such service on the date specified
23 in subsection (c) and actually utilized in that
24 service in the two-year period preceding that
25 date, excluding service to points between An-

1 chorage, Alaska and Whittier, Alaska served by
2 common carrier service unless such scheduled
3 service is only for carriage of oil or pursuant to
4 a contract with the United States military, and
5 provided further that, with respect to scheduled
6 barge service between the contiguous 48 States
7 and Puerto Rico, such total annual capacity
8 shall be deemed as such total annual capacity
9 plus the annual capacity of two additional
10 barges, each capable of carrying 185 trailers
11 and 100 automobiles; and

12 (B) with respect to service provided by
13 container vessels, the overall capacity equal to
14 the sum of—

15 (i) 100 percent of the capacity of ves-
16 sels operated by or for the contractor on
17 that date, with the vessels' configuration
18 and frequency of sailing in effect on that
19 date, and which participate solely in that
20 noncontiguous domestic trade; and

21 (ii) 75 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
25 date, and which participate in that non-

1 contiguous domestic trade and in another
2 trade, provided that the term does not in-
3 clude any restriction on frequency, or num-
4 ber of sailings, or on ports called within
5 such overall capacity.

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

14 (3) "Participates in a noncontiguous domestic
15 trade" means directly or indirectly owns, charters,
16 or operates a vessel engaged in transportation of
17 cargo between a point in the contiguous 48 states
18 and a point in Alaska, Hawaii, or Puerto Rico, other
19 than a point in Alaska north of the Arctic Circle.

20 (4) "Related party" means—

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

1 (B) an officer, director, agent, or other ex-
2 ecutive of a contractor or of a person referred
3 to in subparagraph (A).

4 TITLE II—OPERATING FLEXIBILITY AND
5 REGULATORY RELIEF

6 **SEC. 201. OPERATIONAL FLEXIBILITY.**

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

10 “(f) The provisions of subsection (a) shall not pre-
11 clude a contractor receiving assistance under subtitle A
12 or B of title VI, or any holding company, subsidiary, or
13 affiliate of the contractor, or any officer, director, agent,
14 or executive thereof, from—

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

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

21 “(A) the foreign-flag vessel was owned,
22 chartered, or operated by, or is a replacement
23 for a foreign-flag vessel owned, chartered, or
24 operated by, such owner or operator, or any
25 holding company, subsidiary, affiliate, or associ-

1 ate of such owner or operator, on the date of
2 enactment of the Maritime Reform and Security
3 Act of 1995;

4 “(B) the owner or operator, with respect to
5 each additional foreign-flag vessel, other than a
6 time chartered vessel, has first applied to have
7 that vessel included in an operating agreement
8 under subtitle B of title VI, and the Secretary
9 has not awarded an operating agreement with
10 respect to that vessel within 90 days after the
11 filing of the application; or

12 “(C) the vessel has been placed under for-
13 eign documentation pursuant to section 9 of the
14 Shipping Act, 1916 (46 U.S.C. App. 808) or
15 section 616(d) or 652(n) of this Act, except
16 that any foreign-flag vessel, other than a time
17 chartered vessel, a replacement vessel under
18 section 653(d), or a vessel owned, chartered, or
19 operated by the owner or operator on the date
20 of enactment of the Maritime Reform and Secu-
21 rity Act of 1995, in line haul service between
22 the United States and foreign ports is reg-
23 istered under the flag of a foreign registry
24 deemed appropriate by the Secretary of Trans-
25 portation, and available to be requisitioned by

1 the Secretary of Transportation pursuant to
2 section 902 of this Act;

3 “(3) owning, chartering, or operating foreign-
4 flag bulk cargo vessels that are operated in foreign-
5 to-foreign service or the foreign commerce of the
6 United States;

7 “(4) chartering or operating foreign-flag vessels
8 that are operated solely as replacement vessels for
9 United States-flag vessels or vessel capacity that are
10 made available to the Secretary of Defense pursuant
11 to section 653 of this Act; or

12 “(5) entering into time or space charter or
13 other cooperative agreements with respect to foreign-
14 flag vessels or acting as agent or broker for a for-
15 eign-flag vessel or vessels.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to a contractor under subtitle
18 B of title VI of the Merchant Marine Act, 1936, as amend-
19 ed by this Act, upon enactment of this Act, and shall apply
20 to a contractor under subtitle A of title VI of that Act,
21 upon the earlier of—

22 (1) the date that a payment is made, under the
23 Maritime Security Program under subtitle B of that
24 title to a contractor under subtitle B of that title
25 who is not party to an operating-differential subsidy

1 contract under subtitle A of that title, with the Sec-
2 retary of Transportation to cause notice of the date
3 of such payment to be published in the Federal Reg-
4 ister as soon as possible; or

5 (2) with respect to a particular contractor
6 under the operating-differential subsidy program
7 under subtitle A of that title, the date that contrac-
8 tor enters into a contract with the Secretary under
9 the Maritime Security Program established by sub-
10 title B of that title.

11 **SEC. 202. REGISTRATION REFORM.**

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

14 “(e) Notwithstanding subsection (c)(2), the Merchant
15 Marine Act, 1936, or any contract entered into with the
16 Secretary of Transportation under that Act, a vessel may
17 be placed under a foreign registry, with approval of the
18 Secretary, if—

19 “(1)(A) the Secretary determines that at least
20 one replacement vessel of a capacity that is equiva-
21 lent or greater, as measured by deadweight tons,
22 gross tons, or container equivalent units, as appro-
23 priate, is documented under chapter 121 of title 46,
24 United States Code, by the owner of the vessel
25 placed under the foreign registry; and

1 “(B) the replacement vessel is not more than
2 10 years of age on the date of that documentation;

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

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

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

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

19 **SEC. 203. RESTRICTION REMOVAL.**

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

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

24 “Notwithstanding any other provision of law or con-
25 tract, all restrictions and requirements under sections

1 503, 506, 802 applicable to a liner vessel constructed, re-
2 constructed, or reconditioned with the aid of construction-
3 differential subsidy shall terminate upon the expiration of
4 the 25-year period beginning on the date of the original
5 delivery of the vessel from the shipyard.”.

6 **SEC. 204. VESSEL STANDARDS.**

7 (a) A liner vessel which is not documented under
8 chapter 121 of title 46, United States Code, on the date
9 of enactment of this Act and which the Secretary of
10 Transportation determines to meet the criteria of section
11 651(b) of the Merchant Marine Act, 1936, shall be eligible
12 for a certificate of inspection if it is eligible under chapter
13 121 of title 46, United States Code, to be documented as
14 a United States-flag vessel after the Secretary determines
15 that—

16 (1) the vessel is classed by and designed in ac-
17 cordance with the rules of the American Bureau of
18 Shipping or other classification society accepted by
19 the Secretary; and

20 (2) the vessel complies with applicable inter-
21 national agreements and associated guidelines, as
22 determined by the requirements of the country in
23 which the vessel was registered prior to documenta-
24 tion in the United States, if, at the time the Sec-
25 retary makes those determinations, that country has

1 not been identified by the Secretary as inadequately
2 enforcing international vessel regulations.

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

7 (c) The Secretary may rely upon a certification from
8 the American Bureau of Shipping or other classification
9 society accepted by the Secretary to establish that a vessel
10 is in compliance with the requirements of subsection (a)
11 and (b).

12 (d) As used in this section, “liner vessel” means a
13 cargo carrying vessel which is not a tank vessel and which
14 is either a roll-on/roll-off vessel, a containership, a LASH
15 vessel, or a vessel which is operated in ocean common car-
16 riage within the meaning of the Shipping Act of 1984 (46
17 U.S.C. App. 1701 et seq.), or if not employed in such serv-
18 ice, determined by the Secretary to be capable of employ-
19 ment in such service.

20 TITLE III—LOAN GUARANTEES AND SHIP
21 REPAIR

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

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

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

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

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

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

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

13 “(h)(1) The Secretary shall—

14 “(A) establish in accordance with this sub-
15 section a system of risk categories for obligations
16 guaranteed under this title, that categorizes the rel-
17 ative risk of guarantees made under this title with
18 respect to the risk factors set forth in paragraph
19 (3); and

20 “(B) determine for each of the risk categories
21 a subsidy rate equivalent to the average annual cost
22 of obligations in the category, expressed as a per-
23 centage of the average annual aggregate amount
24 guaranteed under this title for obligations in the cat-
25 egory.

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

5 “(B) The Secretary shall consider the aggregate
6 amount available to the Secretary for making guarantees
7 under this title to be reduced by the amount determined
8 by multiplying—

9 “(i) the amount guaranteed under this title for
10 an obligation, by

11 “(ii) the subsidy rate for the category in which
12 the obligation is placed under subparagraph (A) of
13 this paragraph.

14 “(C) The estimated long-term cost to the Government
15 of a guarantee made by the Secretary under this title for
16 an obligation is deemed to be the amount determined
17 under subparagraph (B) for the obligation.

18 “(D) The Secretary may not guarantee obligations
19 under this title after the aggregate amount available to
20 the Secretary under appropriations Acts for the cost of
21 loan guarantees is required by subparagraph (B) to be
22 considered reduced to zero.

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

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

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

6 “(C) The portion of an obligation, which is
7 guaranteed or to be guaranteed, in relation to the
8 total cost of the project financed or to be financed
9 by the obligation.

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

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

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

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

20 “(H) The collateral provided for a guarantee
21 for an obligation.

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

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

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

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

13 (c) GUARANTEE FEES.—Section 1104A(e) of title XI
14 of the Merchant Marine Act, 1936 (46 U.S.C. App.
15 1274(e)) is amended to read as follows:

16 “(e)(1) Except as otherwise provided in this sub-
17 section, the Secretary shall prescribe regulations to assess
18 in accordance with this subsection a fee for the guarantee
19 of an obligation under this title.

20 “(2)(A) The amount of a fee under this subsection
21 for a guarantee is equal to the sum determined by adding
22 the amounts determined under subparagraph (B) for the
23 years in which the guarantee is in effect.

24 “(B) The amount referred to in subparagraph (A) for
25 a year is the present value (determined by applying the

1 discount rate determined under subparagraph (F)) of the
2 amount determined by multiplying—

3 “(i) the estimated average unpaid principal
4 amount of the obligation that will be outstanding
5 during the year (determined in accordance with sub-
6 paragraph (E)), by

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

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

11 “(i) in the case of an obligation for a delivered
12 vessel or equipment, not less than one-half of 1 per-
13 cent and not more 1 percent, determined by the Sec-
14 retary for the obligation under the formula estab-
15 lished under subparagraph (D); or

16 “(ii) in the case of an obligation for a vessel to
17 be constructed, reconstructed, or reconditioned, or of
18 equipment to be delivered, not less than one-quarter
19 of 1 percent and not more than one-half of 1 per-
20 cent, determined by the Secretary for the obligation
21 under the formula established under subparagraph
22 (D).

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

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

3 “(ii) takes into account the security provided
4 for a guarantee under this title for the obligation;
5 and

6 “(iii) uses—

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

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

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

17 “(F) For purposes of determining present value
18 under subparagraph (B) for an obligation, the Secretary
19 shall apply a discount rate determined by the Secretary
20 of the Treasury taking into consideration current market
21 yields on outstanding obligations of the United States hav-
22 ing periods to maturity comparable to the period to matu-
23 rity for the obligation with respect to which the determina-
24 tion of present value is made.

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

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

10 “(5) The amount guaranteed by the Secretary under
11 this title shall include the amount of the fee paid under
12 this subsection.”.

13 (d) FISHING VESSEL LOAN GUARANTEES.—Notwith-
14 standing any other provision of law, for purposes of sec-
15 tion 1101(n) of the Merchant Marine Act, 1936 (46
16 U.S.C. App. 1271(n)), the Secretary of Transportation
17 shall be deemed the “Secretary” with respect to loan guar-
18 antee applications to finance the construction, reconstruc-
19 tion, or reconditioning of fishing vessels intended for the
20 export commerce. Any fishing vessel financed with a De-
21 partment of Transportation export loan guarantee shall
22 be prohibited from engaging in any fishery within the
23 United States exclusive economic zone.

1 **SEC. 303. VESSEL REPAIR AND MAINTENANCE PILOT PRO-**
2 **GRAM.**

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

12 (b) USE OF VARIOUS CONTRACTING ARRANGE-
13 MENTS.—In conducting a pilot program under this sec-
14 tion, the Secretary of Transportation shall use contracting
15 arrangements similar to those used by the Department of
16 Defense for procuring maintenance and repair of its ves-
17 sels.

18 (c) CONTRACT REQUIREMENTS.—Each contract with
19 a shipyard under this section shall—

20 (1) subject to subsection (d), provide for the
21 procurement from the shipyard of all repair and
22 maintenance (including activation, deactivation, and
23 drydocking) for 1 vessel in the Ready Reserve Force
24 that is outported in the geographical vicinity of the
25 shipyard; and

26 (2) be effective for 3 years.

1 (d) LIMITATION OF WORK UNDER CONTRACTS.—A
2 contract under this section may not provide for the pro-
3 curement of operation or manning for a vessel that may
4 be procured under another contract for the vessel to which
5 section 11(d)(2) of the Merchant Ship Sales Act of 1946
6 (50 U.S.C. App. 1774(d)(2)) applies.

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

10 (f) REPORT.—The Secretary shall submit to the Con-
11 gress—

12 (1) an interim report on the effectiveness of
13 each contract under this section in providing for eco-
14 nomic and efficient repair and maintenance of the
15 vessel included in the contract, no later than 20
16 months after the date of the enactment of this Act;
17 and

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

21 TITLE IV—MISCELLANEOUS

22 **SEC. 401. MERCHANT MARINER BENEFITS.**

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

“Sec.

“11201. Qualified service.

“11202. Documentation of qualified service.

“11203. Eligibility for certain veterans’ benefits.

“11204. Processing fees.

1 **“§ 11201. Qualified service**

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

5 “(1) was a member of the United States mer-
6 chant marine (including the Army Transport Service
7 and the Naval Transportation Service) serving as a
8 crewmember of a vessel that was—

9 “(A) operated by the War Shipping Ad-
10 ministration or the Office of Defense Transpor-
11 tation (or an agent of the Administration or Of-
12 fice);

13 “(B) operated in waters other than inland
14 waters, the Great Lakes, other lakes, bays, and
15 harbors of the United States;

16 “(C) under contract or charter to, or prop-
17 erty of, the Government of the United States;
18 and

19 “(D) serving the Armed Forces; and

20 “(2) while so serving, was licensed or otherwise
21 documented for service as a crewmember of such a
22 vessel by an officer or employee of the United States

1 authorized to license or document the person for
2 such service.

3 **“§ 11202. Documentation of qualified service**

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

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

9 “(2) correct, or request the appropriate official
10 of the Federal Government to correct, the service
11 records of the person to the extent necessary to re-
12 flect the qualified service and the issuance of the
13 certificate of honorable discharge.

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

17 “(c) In making a determination under subsection
18 (a)(1), the Secretary shall apply the same standards relat-
19 ing to the nature and duration of service that apply to
20 the issuance of honorable discharges under section
21 401(a)(1)(B) of the GI Bill Improvement Act of 1977 (38
22 U.S.C. 106 note).

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

1 **“§ 11203. Eligibility for certain veterans’ benefits**

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

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

5 “(2) is not eligible under any other provision of
6 law for benefits under laws administered by the Sec-
7 retary of Veterans Affairs, is deemed to be active
8 duty in the Armed Forces during a period of war for
9 purposes of eligibility for benefits under chapters 23
10 and 24 of title 38.

11 “(b) The Secretary shall reimburse the Secretary of
12 Veterans Affairs for the value of benefits that the Sec-
13 retary of Veterans Affairs provides for an individual by
14 reason of eligibility under this section.

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

18 **“§ 11204. Processing fees**

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

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

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

“112. Merchant Mariner Benefits 11201”.

4 **SEC. 402. REEMPLOYMENT RIGHTS FOR CERTAIN MER-**
5 **CHANT SEAMEN.**

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

9 “SEC. 302. (a) An individual who is certified by the
10 Secretary of Transportation under subsection (c) shall be
11 entitled to reemployment rights and other benefits sub-
12 stantially equivalent to the rights and benefits provided
13 for by chapter 43 of title 38, United States Code, for any
14 member of a Reserve component of the Armed Forces of
15 the United States who is ordered to active duty.

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

22 “(c) Not later than 20 days after the date the Sec-
23 retary of Transportation receives from an individual an
24 application for certification under this subsection, the Sec-
25 retary shall—

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

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

4 “(i) in the National Defense Reserve
5 Fleet Maintained under section 11 of the
6 Merchant Ship Sales Act of 1946, in a pe-
7 riod in which that vessel was in use or
8 being activated for use under subsection
9 (b) of that section;

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

12 “(iii) that is owned, chartered, or con-
13 trolled by the United States and used by
14 the United States for a war, armed con-
15 flict, national emergency, or maritime mo-
16 bilization need (including for training pur-
17 poses or testing for readiness and suit-
18 ability for mission performance); and

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

1 “Secretary of the Navy,” and inserting “Secretary of De-
2 fense,”.

3 **SEC. 405. REPORTING REQUIREMENT REDUCTION.**

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

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S 1139 IS—2

S 1139 IS—3

S 1139 IS—4