

108TH CONGRESS
1ST SESSION

S. 1262

To authorize appropriations for fiscal years 2004, 2005, and 2006 for certain maritime programs of the Department of Transportation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2003

Mr. McCAIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize appropriations for fiscal years 2004, 2005, and 2006 for certain maritime programs of the Department of Transportation, 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 Administra-
5 tion Authorization Act of 2003”.

1 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL**
 2 **YEARS 2004, 2005, AND 2006.**

3 There are authorized to be appropriated to the Sec-
 4 retary of Transportation for the Maritime Administra-
 5 tion—

6 (1) for expenses necessary for operations and
 7 training activities, not to exceed \$104,400,000 for
 8 the fiscal year ending September 30, 2004,
 9 \$106,000,000 for the fiscal year ending September
 10 2005, and \$109,000,000 for the fiscal year ending
 11 2006;

12 (2) for administrative expenses related to loan
 13 guarantee commitments under title XI of the Mer-
 14 chant Marine Act, 1936 (46 U.S.C. App. 1271 et
 15 seq.), \$4,498,000 for each of fiscal years 2004,
 16 2005, and 2006; and

17 (3) for ship disposal, \$11,422,000 for each of
 18 fiscal years 2004, 2005, and 2006.

19 **SEC. 3. CONVEYANCE OF OBSOLETE VESSELS UNDER TITLE**
 20 **V, MERCHANT MARINE ACT, 1936.**

21 Section 508 of the Merchant Marine Act, 1936 (46
 22 U.S.C. App. 1158) is amended—

23 (1) by inserting “(a) AUTHORITY TO SCRAP OR
 24 SELL OBSOLETE VESSELS.—” before “If”; and

25 (2) by adding at the end the following:

26 2 “(b) AUTHORITY TO CONVEY VESSELS.—

1 “(1) IN GENERAL.—Notwithstanding section
2 510(j) of this Act, the Secretary of Transportation
3 may convey the right, title, and interest of the
4 United States Government in any vessel of the Na-
5 tional Defense Reserve Fleet that has been identified
6 by the Secretary as an obsolete vessel of insufficient
7 value to warrant its further preservation, if—

8 “(A) the recipient is a non-profit organiza-
9 tion, a State, Commonwealth, or possession of
10 the United States or any municipal corporation
11 or political subdivision thereof, or the District
12 of Columbia;

13 “(B) the recipient agrees not to use, or
14 allow others to use, the vessel for commercial
15 transportation purposes;

16 “(C) the recipient agrees to make the ves-
17 sel available to the Government whenever the
18 Secretary indicates that it is needed by the
19 Government;

20 “(D) the recipient agrees to hold the Gov-
21 ernment harmless for any claims arising from
22 exposure to asbestos, polychlorinated biphenyls,
23 lead paint, or other hazardous substances after
24 conveyance of the vessel, except for claims aris-
25 ing from use of the vessel by the Government;

1 “(E) the recipient has a conveyance plan
2 and a business plan, each of which have been
3 submitted to and approved by the Secretary;
4 and

5 “(F) the recipient has provided proof, as
6 determined by the Secretary, of resources suffi-
7 cient to accomplish the transfer, necessary re-
8 pairs and modifications, and initiation of the in-
9 tended use of the vessel.

10 “(2) OTHER EQUIPMENT.—At the Secretary’s
11 discretion, additional equipment from other obsolete
12 vessels of the National Defense Reserve Fleet may
13 be conveyed to assist the recipient with maintenance,
14 repairs, or modifications.

15 “(3) ADDITIONAL TERMS.—The Secretary may
16 require any additional terms the Secretary considers
17 appropriate.

18 “(4) DELIVERY OF VESSEL.—If conveyance is
19 made under this subsection the vessel shall be deliv-
20 ered to the recipient at a time and place to be deter-
21 mined by the Secretary. The vessel shall be conveyed
22 in an ‘as is’ condition.

23 “(5) LIMITATIONS.—If at any time prior to de-
24 livery of the vessel to the recipient, the Secretary de-
25 termines that a different disposition of a vessel

1 would better serve the interests of the Government,
2 the Secretary shall pursue the more favorable dis-
3 position of the obsolete vessel and shall not be liable
4 for any damages that may result from an intended
5 recipient's reliance upon a proposed transfer.”.

6 **SEC. 4. CARGO PREFERENCE UNDER TITLE IX.**

7 (a) CONSTRUCTION OF U.S.-FLAG TANK SHIPS.—
8 Section 901(b)(1) of the Merchant Marine Act, 1936 (46
9 U.S.C. App. 1241(b)(1)) is amended by striking “three
10 years:” and all that follows and inserting “3 years. Not-
11 withstanding the preceding sentence, the term ‘privately
12 owned United States-flag commercial vessel’ shall include
13 a United States documented self-propelled tank vessel
14 when the owner of such a vessel has notified the Maritime
15 Administration in writing of the existence of an executed
16 contract between the owner and a United States shipyard
17 for the construction of 2 or more self-propelled, double
18 hulled tank vessels to be documented under the laws of
19 the United States, each to be capable of carrying more
20 than 2 types of refined petroleum products. The preceding
21 sentence shall apply to such a privately owned United
22 States-flag commercial vessel for a 3-year period com-
23 mencing on the date the contract is executed for construc-
24 tion of the vessels and shall continue to apply to the vessel

1 throughout the 3-year period so long as the vessel remains
 2 documented under the laws of the United States.”.

3 (b) CONFORMING CARGO PREFERENCE YEAR TO
 4 FEDERAL FISCAL YEAR.—Section 901b(c)(2) of the Mer-
 5 chant Marine Act, 1936 (46 U.S.C App. 1241f(c)(2)) is
 6 amended by striking “1986.” and inserting “1986, the 18-
 7 month period beginning April 1, 2002, and the 12-month
 8 period beginning October 1, 2003, and each year there-
 9 after.”.

10 **SEC. 5. EQUITY PAYMENTS BY OBLIGOR FOR DISBURSE-**
 11 **MENT PRIOR TO TERMINATION OF ESCROW**
 12 **AGREEMENT UNDER TITLE XI.**

13 (a) IN GENERAL.—Section 1108 of the Merchant
 14 Marine Act, 1936 (46 U.S.C. App. 1279a) is amended by
 15 adding at the end the following:

16 “(g) PAYMENTS REQUIRED BEFORE DISBURSE-
 17 MENT.—

18 “(1) IN GENERAL.—No disbursement shall be
 19 made under subsection (b) to any person until the
 20 total amount paid by or for the account of the obli-
 21 gor from sources other than the proceeds of the obli-
 22 gation equals at least 25 per centum or 12½ per
 23 centum, whichever is applicable, of the actual cost of
 24 the vessel. The Secretary shall establish a system of
 25 controls, including automated controls, to ensure

1 that no loan funds are disbursed to a shipowner or
2 shipyard owner before the shipowner or shipyard
3 owner meets the requirement of the preceding sen-
4 tence.

5 “(2) DOCUMENTED PROOF OF PROGRESS RE-
6 QUIREMENT.—The Secretary shall, by regulation, es-
7 tablish a transparent, independent, and risk-based
8 process for verifying and documenting the progress
9 of projects under construction before disbursing
10 guaranteed loan funds. At a minimum, the process
11 shall require documented proof of progress in con-
12 nection with the construction, reconstruction, or re-
13 conditioning of a vessel or vessels before disburse-
14 ments are made from the escrow fund. The regula-
15 tions shall require that the obligor provide a certifi-
16 cate from an independent party certifying that the
17 requisite progress in construction, reconstruction, or
18 reconditioning has taken place.”.

19 (b) DEFINITION OF ACTUAL COST.—Section 1101(f)
20 of the Merchant Marine Act, 1936 (46 U.S.C. App.
21 1271(f)) is amended to read as follows:

22 “(f) ACTUAL COST DEFINED.—The term ‘actual
23 cost’ means the sum of—

1 “(A) a waiver of otherwise applicable regu-
2 latory requirements be made only with the doc-
3 umented concurrence of program offices with
4 expertise in economic, technical, and financial
5 aspects of the review process;

6 “(B) the economic soundness requirements
7 set forth in paragraph (1)(A) of this subsection
8 are met after the waiver of the financial condi-
9 tion requirement; and

10 “(C) the wavier shall provide for the impo-
11 sition of other requirements on the obligor de-
12 signed to compensate for the increased risk as-
13 sociated with the obligor’s failure to meet regu-
14 latory requirements applicable to financial con-
15 dition.”.

16 **SEC. 7. PROJECT MONITORING UNDER TITLE XI.**

17 (a) PROJECT MONITORING.—Section 1104A of the
18 Merchant Marine Act, 1936 (46 U.S.C. App. 1274) is
19 amended by adding at the end the following:

20 “(k) MONITORING.— The Secretary shall monitor the
21 financial conditions and operations of the obligor on a reg-
22 ular basis during the term of the guarantee. The Secretary
23 shall document the results of the monitoring on a quar-
24 terly or monthly basis depending upon the condition of the
25 obligor. If the Secretary determines that the financial con-

1 dition of the obligor warrants additional protections to the
2 Secretary, then the Secretary shall take appropriate action
3 under subsection (m) of this section. If the Secretary de-
4 termines that the financial condition of the obligor jeop-
5 ardizes its continued ability to perform its responsibilities
6 in connection with the guarantee of obligations by the Sec-
7 retary, the Secretary shall make an immediate determina-
8 tion whether default should take place and whether fur-
9 ther measures should be taken to protect the interests of
10 the Secretary while insuring that program objectives are
11 met.”.

12 (b) SEPARATION OF DUTIES AND OTHER REQUIRE-
13 MENTS.—Section 1104A of the Merchant Marine Act,
14 1936 (46 U.S.C. App. 1274), as amended by subsection
15 (a), is further amended by adding at the end the following:

16 “(1) REVIEW OF APPLICATIONS.—No commitment to
17 guarantee, or guarantee of, an obligation shall be made
18 by the Secretary unless the Secretary certifies that a full
19 and fair consideration of all the regulatory requirements,
20 including economic soundness and financial requirements
21 applicable to obligors and related parties, has been made
22 through a documented independent assessment conducted
23 by offices with expertise in technical, economic, and finan-
24 cial aspects of the loan application process.

1 “(m) AGREEMENT WITH OBLIGOR.—The Secretary
2 shall include provisions in loan agreements with obligors
3 that provide additional authority to the Secretary to take
4 action to limit potential losses in connection with defaulted
5 loans or loans that are in jeopardy due to the deteriorating
6 financial condition of obligors. Provisions that the Sec-
7 retary shall include in loan agreements include require-
8 ments for additional collateral or greater equity contribu-
9 tions that are effective upon the occurrence of verifiable
10 conditions relating to the obligors financial condition or
11 the status of the vessel or shipyard project.”.

12 **SEC. 8. DEFAULTS UNDER TITLE XI.**

13 (a) ACTIONS TO BE TAKEN IN EVENT OF DE-
14 FAULT.—Section 1105 of the Merchant Marine Act, 1936
15 (46 U.S.C. App. 1275) is amended by adding at the end
16 the following:

17 “(f) DEFAULT RESPONSE.—In the event of default
18 on a obligation, the Secretary shall conduct operations
19 under this title in a manner which—

20 “(1) maximizes the net present value return
21 from the sale or disposition of assets associated with
22 the obligation;

23 “(2) minimizes the amount of any loss realized
24 in the resolution of the guarantee;

1 “(3) ensures adequate competition and fair and
2 consistent treatment of offerors; and

3 “(4) requires appraisal of assets by an inde-
4 pendent appraiser.”.

5 (b) RESTRICTIONS.—

6 (1) Section 1104A(d)(1)(A)(i) of the Merchant
7 Marine Act, 1936 (46 U.S.C. App. 1274
8 (d)(1)(A)(i)) is amended by striking “equipment for
9 which a guarantee under this title is in effect;” and
10 inserting “equipment;”.

11 (2) Section 1104A(d)(1)(A) of the Merchant
12 Marine Act, 1936 (46 U.S.C. App. 1274 (d)(1)(A))
13 is amended—

14 (A) by striking “and” after the semicolon
15 in clause (v);

16 (B) by striking “safety.” in clause (vi) and
17 inserting “safety; and”; and

18 (C) by adding at the end the following:

19 “(vii) the past performance of the
20 shipyard doing the construction on com-
21 mercial projects, including cost-over-runs
22 and on-time performance.”.

1 **SEC. 9. 270-DAY DECISION PERIOD.**

2 Section 1104A of the Merchant Marine Act, 1936 (46
3 U.S.C. App. 1274), as amended by section 7, is amended
4 by adding at the end the following:

5 “(n) 270-DAY DECISION.—The Secretary of Trans-
6 portation shall approve or deny an application for a loan
7 guarantee under this title within 270 days after the date
8 on which the signed application is received by the Sec-
9 retary.”.

10 **SEC. 10. LOAN GUARANTEES UNDER TITLE XI.**

11 Section 1104A of the Merchant Marine Act, 1936 (46
12 U.S.C. App. 1274) is amended—

13 (1) by adding at the end of subsection (d)(1)
14 the following:

15 “(C) The Secretary may make a deter-
16 mination that aspects of an application under
17 this title require independent analysis to be con-
18 ducted by third party experts due to risk fac-
19 tors associated with markets, technology, finan-
20 cial structures, or other risk factors identified
21 by the Secretary. Any independent analysis con-
22 ducted pursuant to this provision shall be per-
23 formed by a party chosen by the Secretary.

24 “(D) Notwithstanding any other provision
25 of this title, the Secretary may make a deter-
26 mination that an application under this title re-

1 quires additional equity because of increased
2 risk factors associated with markets, tech-
3 nology, financial structures, or other risk fac-
4 tors identified by the Secretary.

5 “(E) In determining whether to approve an
6 application under this title, the Secretary may
7 consider a proposed shipyard’s past perform-
8 ance on commercial projects including cost in-
9 creases, quality of work, and ability to meet
10 work and delivery schedules. After consideration
11 of these factors the Secretary may impose addi-
12 tional requirements on a shipyard, require addi-
13 tional security, or disapprove an application.

14 “(F) The Secretary may charge and collect
15 fees to cover the costs of independent analysis
16 under subparagraph (C). Notwithstanding sec-
17 tion 3302 of title 31, United States Code, any
18 fee collected under this subparagraph shall—

19 “(i) be credit as an offsetting collec-
20 tion to the account that finances the ad-
21 ministration of the loan guarantee pro-
22 gram;

23 “(ii) shall be available for expenditure
24 only to pay the costs of activities and serv-
25 ices for which the fee is imposed; and

1 “(iii) shall remain available until ex-
2 pended.”; and

3 (2) by striking “(including for obtaining inde-
4 pendent analysis under subsection (d)(4)),” in sub-
5 section (f).

6 **SEC. 11. ANNUAL REPORT ON TITLE XI PROGRAM.**

7 The Secretary of Transportation shall report to Con-
8 gress annually on the loan guarantee program under title
9 XI of the Merchant Marine Act, 1936 (46 U.S.C. App.
10 1271 et seq.). The reports shall include—

11 (1) the size, in dollars, of the portfolio of loans
12 guaranteed;

13 (2) the size, in dollars, of projects in the port-
14 folio facing financial difficulties;

15 (3) the number and type of projects covered;

16 (4) a profile of pending loan applications;

17 (5) the amount of appropriations available for
18 new guarantees;

19 (6) a profile of each project approved since the
20 last report; and

21 (7) a profile of any defaults since the last re-
22 port.

23 **SEC. 12. REVIEW OF TITLE XI LOAN GUARANTEE PROGRAM.**

24 (a) IN GENERAL.—The Secretary of Transportation
25 shall conduct a comprehensive assessment of the human

1 capital and other resource needs in connection with the
2 title XI loan guarantee program under the Merchant Ma-
3 rine Act, 1936 (46 U.S.C. App. 1271 et seq.). In connec-
4 tion with this assessment, the Secretary shall develop an
5 organizational framework for the program offices that in-
6 sures that a clear separation of duties is established
7 among the loan application, project monitoring, and de-
8 fault management functions.

9 (b) PROGRAM ENHANCEMENTS.—

10 (1) Section 1103(h)(1) of the Merchant Marine
11 Act, 1936 (46 U.S.C. App. 1273(h)(1)) is amend-
12 ed—

13 (A) by striking “subsection” in subpara-
14 graph (A) and inserting “subsection, and up-
15 date annually,”;

16 (B) by inserting “annually” before “deter-
17 mine” in subparagraph (B);

18 (C) by striking “and” after the semicolon
19 in subparagraph (A);

20 (D) by striking “category.” in subpara-
21 graph (B) and inserting “category; and”; and

22 (E) by adding at the end the following:

23 “(C) ensure that each risk category is com-
24 prised of loans that are relatively homogenous
25 in cost and share characteristics predictive of

1 defaults and other costs, given the facts known
2 at the time of obligation or commitment, using
3 a risk category system that is based on histor-
4 ical analysis of program data and statistical evi-
5 dence concerning the likely costs of defaults or
6 other costs that expected to be associated with
7 the loans in the category.”.

8 (2) Section 1103(h)(2)(A) of that Act (46
9 U.S.C. App. 1273(h)(2)(A)) is amended by inserting
10 “and annually for projects subject to a guarantee,”
11 after “obligation,”.

12 (3) Section 1103(h)(3) of that Act (46 U.S.C.
13 App. 1273(h)(3)) is amended by adding at the end
14 the following:

15 “(K) A risk factor for concentration risk
16 reflecting the risk presented by an unduly large
17 percentage of loans outstanding by any 1 bor-
18 rower or group of affiliated borrowers.”.

19 (c) REPORT.—The Secretary shall report to the Sen-
20 ate Committee on Commerce, Science, and Transportation
21 and the House of Representatives Committee on Armed
22 Services on the results of the development of an organiza-
23 tional framework under subsection (a) by January 2,
24 2004.

1 (d) FUNDING.—It is the sense of the Congress that
2 no further appropriations should be made for purposes of
3 extending loan guarantees under the title XI loan guar-
4 antee program of the Merchant Marine Act, 1936 (46
5 U.S.C. App. 1271 et seq.) until the Secretary of Transpor-
6 tation has developed sufficient internal controls and re-
7 source allocation to ensure that the loan guarantee pro-
8 gram is efficiently and effectively fulfilling the purposes
9 for which it was established and has updated default and
10 recovery assumptions used in estimating the credit subsidy
11 costs of the program to more accurately reflect the actual
12 costs associated with the program.

13 **SEC. 13. WAR RISK INSURANCE.**

14 (a) INTERNATIONAL AGREEMENTS.—Section 1205 of
15 the Merchant Marine Act, 1936 (46 U.S.C. App. 1285)
16 is amended by adding at the end the following:

17 “(c) INSURING INTERNATIONAL OPERATIONS.—The
18 Secretary of Transportation is authorized, upon the re-
19 quest of the Secretary of Defense or any other agency,
20 with the approval of the President, to make payments on
21 behalf of the United States with regard to an international
22 sharing of risk agreement or any lesser obligation on the
23 part of the United States for vessels supporting operations
24 of the North Atlantic Treaty Organization or similar inter-
25 national organization or alliance in which the United

1 States is involved, regardless of registration or ownership,
2 and without regard to whether the vessels are under con-
3 tract with a department or agency of the United States.
4 In order to segregate moneys received and disbursed in
5 connection with an agreement authorized under this sub-
6 section, the Secretary of Transportation shall establish a
7 subaccount within the insurance fund established under
8 section 1208 of this Act.

9 “(d) RECEIPT OF CONTRIBUTIONS.—

10 “(1) IN GENERAL.—Notwithstanding the provi-
11 sions of section 3302(b) of title 31, United States
12 Code, if the international agreements referenced in
13 subsection (c) of this section provide for the sharing
14 of risks involved in mutual or joint operations, con-
15 tributions for losses incurred by the fund subaccount
16 or financed pursuant to section 1208 that are re-
17 ceived from foreign entities, may be deposited in the
18 fund subaccount.

19 “(2) INDEMNITY AGREEMENT.—Such risk shar-
20 ing agreements shall not affect the requirement that
21 the Secretary of Defense or a head of a department,
22 agency, or instrumentality designated by the Presi-
23 dent make an indemnity agreement with the Sec-
24 retary of Transportation under subsection (b) for a
25 waiver of premium on insurance obtained by a de-

1 partment, agency or instrumentality of the United
2 States Government.

3 “(3) CREDITING OF CONTRIBUTORY PAY-
4 MENTS.—If the Secretary of Defense, or a des-
5 ignated head of a department, agency or instrumen-
6 tality, has made a payment to the Secretary of
7 Transportation on account of a loss, pursuant to an
8 indemnification agreement under subsection (b), and
9 the Secretary of Transportation subsequently re-
10 ceives from an entity a contributory payment on ac-
11 count of the same loss, pursuant to a risk sharing
12 agreement referred to in paragraph (1), the amount
13 of the contribution shall be deemed to be a credit in
14 favor of the indemnifying department, agency, or in-
15 strumentality against any amount that such depart-
16 ment, agency, or instrumentality owes or may owe to
17 the Secretary of Transportation under a subsequent
18 indemnification agreement.”.

19 (b) PERMANENT BUDGETARY RESOURCE.—Section
20 1208 of the Merchant Marine Act, 1936 (46 U.S.C. App.
21 1288) is amended by adding at the end the following:

22 “(c) AUTHORIZATION OF APPROPRIATIONS.—To the
23 extent that the fund balance is insufficient to fund current
24 obligations arising under this chapter, there are author-

1 ized to be appropriated to the Secretary of Transportation
2 such sums as may be necessary to pay such obligations.”.

3 (c) CLERICAL AMENDMENT.—The section heading
4 for section 1205 of the Merchant Marine Act, 1936 (46
5 U.S.C. App. 1285) is amended to read as follows:

6 **“SEC. 1205. INSURANCE ON PROPERTY OF GOVERNMENT**
7 **DEPARTMENTS, AGENCIES AND INTER-**
8 **NATIONAL ORGANIZATIONS.”.**

9 **SEC. 14. MARITIME EDUCATION AND TRAINING.**

10 (a) COST OF EDUCATION DEFINED.—Section 1302
11 of the Merchant Marine Act, 1936 (46 U.S.C. App.
12 1295a) is amended—

13 (1) by striking “and” after the semicolon in
14 paragraph (3);

15 (2) by striking “States.” in paragraph (4)(B)
16 and inserting “States; and”; and

17 (3) by adding at the end the following:

18 “(5) the term ‘cost of education provided’
19 means the financial costs incurred by the Federal
20 Government for providing training or financial as-
21 sistance to students at the United States Merchant
22 Marine Academy and the State maritime academies,
23 including direct financial assistance, room, board,
24 classroom academics, and other training activities.”.

1 (b) COMMITMENT AGREEMENTS.—Section 1303(e) of
2 the Merchant Marine Act, 1936 (46 U.S.C. App.
3 1295b(e)) is amended—

4 (1) by striking “Academy, unless the individual
5 is separated from the” in paragraph (1)(A);

6 (2) by striking paragraph (1)(C) and inserting
7 the following:

8 “(C) to maintain a valid license as an officer in
9 the merchant marine of the United States for at
10 least 6 years following the date of graduation from
11 the Academy of such individual, accompanied by the
12 appropriate national and international endorsements
13 and certification as required by the United States
14 Coast Guard for service aboard vessels on domestic
15 and international voyages;”;

16 (3) by striking paragraph (1)(E)(iii) and insert-
17 ing the following:

18 “(iii) as a commissioned officer on active
19 duty in an armed force of the United States, as
20 a commissioned officer in the National Oceanic
21 and Atmospheric Administration, or other mari-
22 time-related employment with the Federal Gov-
23 ernment which serves the national security in-
24 terests of the United States, as determined by
25 the Secretary; or”;

1 (4) by striking paragraph (2) and inserting the
2 following:

3 “(2)(A) If the Secretary determines that any indi-
4 vidual who has attended the Academy for not less than
5 2 years has failed to fulfill the part of the agreement re-
6 quired by paragraph (1)(A), such individual may be or-
7 dered by the Secretary of Defense to active duty in one
8 of the armed forces of the United States to serve for a
9 period of time not to exceed 2 years. In cases of hardship
10 as determined by the Secretary, the Secretary may waive
11 this provision in whole or in part.

12 “(B) If the Secretary of the Navy is unable or
13 unwilling to order an individual to active duty under
14 subparagraph (A), or if the Secretary of Transpor-
15 tation determines that reimbursement of the cost of
16 education provided would better serve the interests
17 of the United States, the Secretary may recover
18 from the individual the cost of education provided by
19 the Federal Government.”;

20 (5) by striking paragraph (3) and inserting the
21 following:

22 “(3)(A) If the Secretary determines that an indi-
23 vidual has failed to fulfill any part of the agreement re-
24 quired by paragraph (1), as described in subparagraphs
25 (1)(B), (C), (D), (E), or (F), such individual may be or-

1 dered to active duty to serve a period of time not less than
2 3 years and not more than the unexpired portion, as deter-
3 mined by the Secretary, of the service required by para-
4 graph (1)(E). The Secretary, in consultation with the Sec-
5 retary of Defense, shall determine in which service the in-
6 dividual shall be ordered to active duty to serve such pe-
7 riod of time. In cases of hardship, as determined by the
8 Secretary, the Secretary may waive this provision in whole
9 or in part.

10 “(B) If the Secretary of Defense is unable or unwill-
11 ing to order an individual to active duty under subpara-
12 graph (A), or if the Secretary of Transportation deter-
13 mines that reimbursement of the cost of education pro-
14 vided would better serve the interests of the United States,
15 the Secretary may recover from the individual the cost of
16 education provided in an amount proportionate to the
17 unfulfilled portion of the service obligation as determined
18 by the Secretary. In cases of hardship the Secretary may
19 waive this provision in whole or in part.”; and

20 (6) by redesignating paragraph (4) as para-
21 graph (5) and inserting after paragraph (3) the fol-
22 lowing:

23 “(4) To aid in the recovery of the cost of education
24 provided by the Federal Government pursuant to a com-
25 mitment agreement under this section, the Secretary may

1 request the Attorney General to begin court proceedings,
2 or the Secretary may make use of the Federal debt collec-
3 tion procedures in chapter 176 of title 28, United States
4 Code, or other applicable administrative remedies.”.

5 (c) DEGREES AWARDED.—Section 1303(g) of the
6 Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(g))
7 is amended to read as follows:

8 “(g) DEGREES AWARDED.—

9 “(1) BACHELOR’S DEGREE.—The Super-
10 intendent of the Academy may confer the degree of
11 bachelor of science upon any individual who has met
12 the conditions prescribed by the Secretary and who,
13 if a citizen of the United States, has passed the ex-
14 amination for a merchant marine officer’s license.
15 No individual may be denied a degree under this
16 subsection because the individual is not permitted to
17 take such examination solely because of physical dis-
18 qualification.

19 “(2) MASTER’S DEGREE.—The Superintendent
20 of the Academy may confer a master’s degree upon
21 any individual who has met the conditions prescribed
22 by the Secretary. Any master’s degree program may
23 be funded through non-appropriated funds. In order
24 to maintain the appropriate academic standards, the
25 program shall be accredited by the appropriate ac-

1 creditation body. The Secretary may make regula-
2 tions necessary to administer such a program.”.

3 (d) STUDENT INCENTIVE PAYMENTS.—Section
4 1304(g) of the Merchant Marine Act, 1936 (46 U.S.C.
5 App. 1295c(g)) is amended—

6 (1) by striking “\$3,000” in paragraph (1) and
7 inserting “\$4,000”;

8 (2) in paragraph (3)(A) by striking “attending,
9 unless the individual is separated by such academy;”
10 and inserting “attending;”;

11 (3) by striking paragraph (3)(C) and inserting
12 the following:

13 “(C) to maintain a valid license as an officer in
14 the merchant marine of the United States for at
15 least 6 years following the date of graduation from
16 such State maritime academy of such individual, ac-
17 companied by the appropriate national and inter-
18 national endorsements and certification as required
19 by the United States Coast Guard for service aboard
20 vessels on domestic and international voyages;”;

21 (4) by striking paragraph (3)(E)(iii) and insert-
22 ing the following:

23 “(iii) as a commissioned officer on active
24 duty in an armed force of the United States, as
25 a commissioned officer in the National Oceanic

1 and Atmospheric Administration, or in other
2 maritime-related employment with the Federal
3 Government which serves the national security
4 interests of the United States, as determined by
5 the Secretary; or”;

6 (5) by striking paragraph (4) and inserting the
7 following:

8 “(4)(A) If the Secretary determines that an indi-
9 vidual who has accepted the payment described in para-
10 graph (1) for a minimum of 2 academic years has failed
11 to fulfill the part of the agreement required by paragraph
12 (1) and described in paragraph (3)(A), such individual
13 may be ordered by the Secretary of the Navy to active
14 duty in the United States Navy to serve for a period of
15 time not to exceed 2 years. In cases of hardship, as deter-
16 mined by the Secretary, the Secretary may waive this pro-
17 vision in whole or in part.

18 “(B) If the Secretary of the Navy is unable or unwill-
19 ing to order an individual to active duty under subpara-
20 graph (A), or if the Secretary of Transportation deter-
21 mines that reimbursement of the cost of education pro-
22 vided would better serve the interests of the United States,
23 the Secretary may recover from the individual the cost of
24 education provided by the Federal Government.”;

1 (6) by striking paragraph (5) and inserting the
2 following:

3 “(5)(A) If the Secretary determines that an indi-
4 vidual has failed to fulfill any part of the agreement re-
5 quired by paragraph (1), as described in paragraphs
6 (3)(B), (C), (D), (E), or (F), such individual may be or-
7 dered to active duty to serve a period of time not less than
8 2 years and not more than the unexpired portion, as deter-
9 mined by the Secretary, of the service required by para-
10 graph (3)(E). The Secretary, in consultation with the Sec-
11 retary of Defense, shall determine in which service the in-
12 dividual shall be ordered to active duty to serve such pe-
13 riod of time. In cases of hardship, as determined by the
14 Secretary, the Secretary may waive this provision in whole
15 or in part.

16 “(B) If the Secretary of Defense is unable or unwill-
17 ing to order an individual to active duty under subpara-
18 graph (A), or if the Secretary of Transportation deter-
19 mines that reimbursement of the cost of education pro-
20 vided would better serve the interests of the United States,
21 the Secretary may recover from the individual the cost of
22 education provided in an amount proportionate to the
23 unfulfilled portion of the service obligation as determined
24 by the Secretary. In cases of hardship the Secretary may
25 waive this provision in whole or in part.”; and

1 (7) by redesignating paragraphs (6) and (7) as
2 paragraphs (7) and (8), respectively, and inserting
3 after paragraph (5) the following:

4 “(6) To aid in the recovery of the cost of education
5 provided by the Federal Government pursuant to a com-
6 mitment agreement under this section, the Secretary may
7 request the Attorney General to begin court proceedings,
8 or the Secretary may make use of the Federal debt collec-
9 tion procedures in chapter 176 of title 28, United States
10 Code, or other applicable administrative remedies.”.

11 (e) AWARDS AND MEDALS.—Section 1306 of the
12 Merchant Marine Act, 1936 (46 U.S.C. App. 1295e) is
13 amended by adding at the end the following:

14 “(d) AWARDS AND MEDALS.—The Secretary may es-
15 tablish and maintain a medals and awards program to rec-
16 ognize distinguished service, superior achievement, profes-
17 sional performance, and other commendable achievement
18 by personnel of the United States Maritime Service.”.

19 **SEC. 15. PROHIBITION AGAINST CARRYING GOVERNMENT**
20 **IMPELLED CARGOES FOR VESSELS WITH**
21 **SUBSTANDARD SECURITY MEASURES.**

22 Section 2302(e)(1) of title 46, United States Code,
23 is amended—

1 (1) by inserting “including violations for sub-
2 standard security measures,” in subparagraph (A)
3 after “party,”; and

4 (2) by inserting “including violations for sub-
5 standard security measures,” in subparagraph (B)
6 after “party,”.

7 **SEC. 16. AUTHORITY TO CONVEY OBSOLETE VESSELS TO**
8 **U.S. TERRITORIES AND FOREIGN COUNTRIES**
9 **FOR REEFING.**

10 (a) Section 3 of the Act entitled “An Act to authorize
11 appropriations for the fiscal year 1973 for certain mari-
12 time programs of the Department of Commerce, and for
13 related purposes.” (16 U.S.C. 1220), Title 16, United
14 States Code, is amended to read as follows:

15 **“SEC. 3. PREPARATION OF VESSELS FOR USE AS ARTIFI-**
16 **CIAL REEFS.**

17 “(a) GUIDANCE.—

18 “(1) IN GENERAL.—Not later than September
19 30, 2003, the Administrator of the Environmental
20 Protection Agency and the Secretary of Transpor-
21 tation, acting through the Maritime Administration,
22 shall jointly develop guidance recommending envi-
23 ronmental best management practices to be used in
24 the preparation of vessels for use as artificial reefs.
25 Before issuing the guidance, the Administrator and

1 the Secretary shall consult with interested Federal
2 and State agencies.

3 “(2) REQUIREMENTS.—The guidance shall—

4 “(A) recommend environmental best man-
5 agement practices for the preparation of vessels
6 that would ensure that the use of vessels so
7 prepared as artificial reefs would be environ-
8 mentally beneficial;

9 “(B) promote the nationally consistent use
10 of such practices; and

11 “(C) provide a basis for estimating the
12 costs associated with the preparation of vessels
13 for use as artificial reefs.

14 “(3) USE BY FEDERAL AGENCIES.—The guid-
15 ance shall serve as national guidance for Federal
16 agencies preparing vessels for use as artificial reefs.

17 “(4) REPORT.—The Secretary of Transpor-
18 tation shall submit to Congress a report on the envi-
19 ronmental best management practices developed
20 under paragraph (1) through the existing ship dis-
21 posal reporting requirements in section 3502 of the
22 Floyd D. Spence National Defense Authorization
23 Act for Fiscal Year 2001 (16 U.S.C. 5405 note).
24 The report shall describe such practices, and may in-

1 clude such other matters as the Secretary considers
2 appropriate.

3 “(b) APPLICATION REQUIRED.—

4 “(1) IN GENERAL.—A State, commonwealth,
5 possession of the United States or foreign govern-
6 ment may apply for any vessel of the National De-
7 fense Reserve Fleet that has been identified by the
8 Secretary as an obsolete vessel of insufficient value
9 to warrant its further preservation in such a manner
10 and form as the Secretary shall prescribe. At a min-
11 imum, the application shall state—

12 “(A) the location at which the applicant
13 proposes to sink the vessel or vessels;

14 “(B) the environmental goals to be
15 achieved by the use of the vessel or vessels; and

16 “(C) that the applicant agrees to hold the
17 Government harmless for any claims arising
18 from exposure to asbestos, polychlorinated
19 biphenyls, lead paint, or other hazardous sub-
20 stances after conveyance of the vessel, except
21 for claims arising from use of the vessel by the
22 Government.

23 “(2) STATES.—

24 “(A) ADDITIONAL DOCUMENTATION RE-
25 QUIRED.—A State, commonwealth, or posses-

1 sion of the United States shall also provide to
2 the Secretary and the Administrator in its ap-
3 plication documentation that the proposed use
4 of the particular vessel or vessels requested will
5 comply with all applicable water quality stand-
6 ards and will benefit the environment in the vi-
7 cinity of the proposed reef, taking into account
8 the guidance issued under subsection (a) and
9 other appropriate environmental considerations.

10 “(B) EPA CERTIFICATION.—Before any
11 vessel may be used as an artificial reef, the
12 State, commonwealth, or possession of the
13 United States shall demonstrate to the Environ-
14 mental Protection Agency, and that Agency
15 shall determine in writing, that the use of the
16 vessel as an artificial reef at the proposed loca-
17 tion will be environmentally beneficial.

18 “(3) FOREIGN GOVERNMENTS.—A foreign gov-
19 ernment shall also provide to the Secretary and the
20 Administrator in its application—

21 “(A) documentation of—

22 “(i) how the proposed use of the ves-
23 sel or vessels will benefit the environment;
24 and

1 “(ii) remediation that the vessel will
2 undergo prior to use as an artificial reef;
3 and

4 “(B) certification that such remediation
5 shall take into account the guidance issued
6 under subsection (a).

7 “(4) DETERMINATION OF ENVIRONMENTAL
8 BENEFIT.—No obsolete vessel shall be conveyed un-
9 less the Maritime Administration and the Environ-
10 mental Protection Agency jointly determine, in writ-
11 ing, that the proposed remediation measures will en-
12 sure that use of the vessel as an artificial reef will
13 be environmentally beneficial. The contract con-
14 veying the vessel or vessels from Maritime Adminis-
15 tration to the foreign government shall require the
16 use of the remediation measures determined by Mar-
17 itime Administration and the Environmental Protec-
18 tion Agency to ensure that use of the vessel or ves-
19 sels as an artificial reef will be environmentally ben-
20 eficial.

21 “(c) APPLICATION WITH OTHER LAW.—Nothing in
22 this section shall be construed as affecting in any manner
23 the application of any other provision of law, including
24 laws relating to the conveyance of obsolete vessels, their
25 distribution in commerce, or their use as artificial reefs.”.

1 **SEC. 17. MAINTENANCE OF CURRENT SAINT LAWRENCE**
2 **SEAWAY DEVELOPMENT CORPORATION**
3 **SAFETY RESPONSIBILITIES.**

4 Section 3(2) of the Ports and Waterways Safety Act
5 (33 U.S.C. 1222(2)) is amended by striking “operating.”
6 and inserting “operating, except that ‘Secretary’ means
7 the Secretary of Transportation with respect to the appli-
8 cability of this Act to the Saint Lawrence Seaway.”.

9 **SEC. 18. USE OF INSURANCE PROCEEDS FOR REPAIRS AT**
10 **UNITED STATES MERCHANT MARINE ACAD-**
11 **EMY.**

12 Notwithstanding section 3302 of title 31, United
13 States Code, the Maritime Administration may deposit
14 into its operations and training account (account number
15 69X1750) and use, for purposes otherwise authorized by
16 law and in addition to amounts otherwise appropriated,
17 the amount received by the Maritime Administration as
18 insurance proceeds as a result of the fire that occurred
19 on December 16, 1996, at the United States Merchant
20 Marine Academy, Fitch Building.

21 **SEC. 19. AVAILABILITY TO THE VESSEL OPERATIONS RE-**
22 **VOLVING FUND OF FUNDS FROM LAWSUITS**
23 **AND SETTLEMENTS.**

24 The Vessel Operations Revolving Fund, created by
25 the Third Supplemental Appropriations Act, 1951 (65
26 Stat. 59), shall, after the date of enactment of this Act,

1 be credited with amounts received by the United States
2 from final judgments and dispute settlements that arise
3 from the operation of vessels in the National Defense Re-
4 serve Fleet, including the Ready Reserve Force. Funds
5 credited to the Fund under this section shall be available
6 until expended.

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