



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

June 13, 2003

The Honorable Richard B. Cheney  
President of the Senate  
Washington, D.C. 20510

Dear Mr. President:

There is transmitted herewith a proposed bill

"To authorize appropriations for Fiscal Year 2004 for certain maritime programs of the Department of Transportation, and for other purposes."

This proposal authorizes appropriations for certain maritime programs to promote a strong U.S. Merchant Marine at the funding levels contained in the President's budget for Fiscal Year 2004. These programs include operations and training activities and the cost of administering guaranteed loans under the Title XI loan guarantee program, as required by the Federal Credit Reform Act of 1990.

Operations and training funds requested in section two of the proposal include the costs incurred by headquarters and region staffs in the administration and direction of the various programs of the Maritime Administration (MARAD). Operations and training funds also include funds for the operation of the United States Merchant Marine Academy at Kings Point, New York, and continuing assistance to the six State maritime academies in the form of direct payments, incentive payments to cadets currently enrolled in the Student Incentive Payment (SIP) Program, and funding for maintenance and repair of MARAD ships on loan to the academies for use as training ships. Operations and training funds will also allow MARAD to continue administration of the American Fisheries Act, established by P.L. 105-277, the Omnibus Appropriations Act for Fiscal Year 1999.

The proposal will also authorize funding for the disposal of obsolete government vessels. This funding will enable MARAD to continue disposing of vessels in the National Defense Reserve Fleets that pose the highest risk to the environment. Included in these funds are administrative costs associated with program implementation.

Additionally, the proposal will provide administrative funding associated with managing the Title XI shipbuilding loan guarantee portfolio.

Section three of the proposal authorizes the Secretary to convey obsolete vessels of the National Defense Reserve Fleet to non-profit organizations, States, a United States commonwealth or possession or any political subdivision thereof, for non-commercial uses. This provision gives the Secretary the ability to directly administer such

conveyances which have previously been accomplished through special legislation with differing requirements. All recipients will be required to adhere to specific conveyance terms as delineated by the Secretary.

Section four creates an incentive to build U.S. tankers by authorizing otherwise unqualified vessels to carry certain preference cargo as long as the owner has committed to build two or more new tank vessels in a U.S. shipyard. This section is expected to help alleviate an expected shortfall of U.S. product tankers for strategic sealift purposes, which is likely to occur by 2006 due to the Oil Pollution Act of 1990 phase-out schedule. Section four also streamlines management of the cargo preference program by conforming the cargo preference year to the Federal Government Fiscal Year.

Section five authorizes the Secretary of Transportation to take certain actions to minimize the risk to the Federal Government on shipbuilding loan guarantees. Such actions include seeking independent analysis of certain applications, requiring increased equity from certain applicants and taking into consideration the past performance of the shipyard chosen to construct a vessel. This provision would also allow the Secretary to give priority to construction of double-hull tankers intended to replace tankers being phased out pursuant to the Oil Pollution Act of 1990.

Section six concerns war risk insurance and would enable the Department of Transportation to support shared logistics operations with the North Atlantic Treaty Organization or a similar international organization or alliance. The statutory ability to pay the United States' portion of a shared loss pursuant to an agreement with these organizations would allow the sharing of risk of loss between multiple countries. Such a provision would allow greater use of foreign vessels and distribute the risk of loss of a ship during a contingency to these carriers. Currently there is a disproportionate reliance on U.S.-flag carriers, and thus an increased risk of loss to the U.S. Government. Section six also provides the Secretary of Transportation with a mechanism to fund any deficiencies that may arise with respect to the Department's administration of war risk insurance.

Section seven will amend the commitment agreements and the enforcement of commitment agreements for students at the U.S. Merchant Marine Academy and students at the State maritime academies who have received Federal funds. Many of these amendments are intended to bring the commitment agreements and their enforcement more in line with the requirements for the other Federal service academies.

Section eight will eliminate certain tariffs levied upon repairs and repair parts that are needed by the National Defense Reserve Fleet/Ready Reserve Force. The elimination of these tariffs will streamline MARAD's performance of its national security function with respect to the operation of these vessels.

Section nine allows MARAD to use funds received from a settlement for legally authorized purposes, including completion of repairs to the Fitch Building at the U.S. Merchant Marine Academy

Section ten would provide the Secretary with the authority to exclude vessels from the carriage of Government impelled cargoes that have been detained by the U.S. Coast Guard for violations of security standards contained within international agreements to which the United States is a party.

Section eleven would allow MARAD to retain funds received as a result of final judgments and settlements in the Vessel Operations Revolving Fund (VORF). It would thus provide a potential funding stream for the VORF to cover expenses that arise from time to time as a result of damage incurred to NDRF vessels at the hands of other parties.

Section twelve would extend to the Secretary of Transportation the authority to convey to U.S. territories and foreign governments obsolete vessels to be used as artificial reefs. Currently this authority is limited to the individual States of the United States. MARAD has been contacted by several foreign countries interested in obtaining obsolete vessels for use as artificial reefs. Due to the existing statutory constraints, MARAD has been unable to explore the possibility of conveying obsolete vessels to other countries for this purpose.

Finally, section thirteen would clarify the decades-old authority of the Saint Lawrence Seaway Development Corporation (SLSDC) to carry out the provisions of the Ports and Waterways Safety Act (PWSA) in the case of the Saint Lawrence Seaway. This delegation underlies enforcement of the joint U.S.-Canadian Seaway regulations governing vessel operations in the Seaway, operations of the SLSDC Vessel Traffic Center, and the SLSDC civil and criminal penalty referral authority.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation to Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,



Norman Y. Mineta

2 Enclosures

Identical letter to the Speaker of the House  
Draft bill and section-by-section analysis



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

June 13, 2003

The Honorable J. Dennis Hastert  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

There is transmitted herewith a proposed bill

"To authorize appropriations for Fiscal Year 2004 for certain maritime programs of the Department of Transportation, and for other purposes."

This proposal authorizes appropriations for certain maritime programs to promote a strong U.S. Merchant Marine at the funding levels contained in the President's budget for Fiscal Year 2004. These programs include operations and training activities and the cost of administering guaranteed loans under the Title XI loan guarantee program, as required by the Federal Credit Reform Act of 1990.

Operations and training funds requested in section two of the proposal include the costs incurred by headquarters and region staffs in the administration and direction of the various programs of the Maritime Administration (MARAD). Operations and training funds also include funds for the operation of the United States Merchant Marine Academy at Kings Point, New York, and continuing assistance to the six State maritime academies in the form of direct payments, incentive payments to cadets currently enrolled in the Student Incentive Payment (SIP) Program, and funding for maintenance and repair of MARAD ships on loan to the academies for use as training ships. Operations and training funds will also allow MARAD to continue administration of the American Fisheries Act, established by P.L. 105-277, the Omnibus Appropriations Act for Fiscal Year 1999.

The proposal will also authorize funding for the disposal of obsolete government vessels. This funding will enable MARAD to continue disposing of vessels in the National Defense Reserve Fleets that pose the highest risk to the environment. Included in these funds are administrative costs associated with program implementation.

Additionally, the proposal will provide administrative funding associated with managing the Title XI shipbuilding loan guarantee portfolio.

Section three of the proposal authorizes the Secretary to convey obsolete vessels of the National Defense Reserve Fleet to non-profit organizations, States, a United States commonwealth or possession or any political subdivision thereof, for non-commercial uses. This provision gives the Secretary the ability to directly administer such

conveyances which have previously been accomplished through special legislation with differing requirements. All recipients will be required to adhere to specific conveyance terms as delineated by the Secretary.

Section four creates an incentive to build U.S. tankers by authorizing otherwise unqualified vessels to carry certain preference cargo as long as the owner has committed to build two or more new tank vessels in a U.S. shipyard. This section is expected to help alleviate an expected shortfall of U.S. product tankers for strategic sealift purposes, which is likely to occur by 2006 due to the Oil Pollution Act of 1990 phase-out schedule. Section four also streamlines management of the cargo preference program by conforming the cargo preference year to the Federal Government Fiscal Year.

Section five authorizes the Secretary of Transportation to take certain actions to minimize the risk to the Federal Government on shipbuilding loan guarantees. Such actions include seeking independent analysis of certain applications, requiring increased equity from certain applicants and taking into consideration the past performance of the shipyard chosen to construct a vessel. This provision would also allow the Secretary to give priority to construction of double hull tankers intended to replace tankers being phased out pursuant to the Oil Pollution Act of 1990.

Section six concerns war risk insurance and would enable the Department of Transportation to support shared logistics operations with the North Atlantic Treaty Organization or a similar international organization or alliance. The statutory ability to pay the United States' portion of a shared loss pursuant to an agreement with these organizations would allow the sharing of risk of loss between multiple countries. Such a provision would allow greater use of foreign vessels and distribute the risk of loss of a ship during a contingency to these carriers. Currently there is a disproportionate reliance on U.S.-flag carriers, and thus an increased risk of loss to the U.S. Government. Section six also provides the Secretary of Transportation with a mechanism to fund any deficiencies that may arise with respect to the Department's administration of war risk insurance.

Section seven will amend the commitment agreements and the enforcement of commitment agreements for students at the U.S. Merchant Marine Academy and students at the State maritime academies who have received Federal funds. Many of these amendments are intended to bring the commitment agreements and their enforcement more in line with the requirements for the other Federal service academies.

Section eight will eliminate certain tariffs levied upon repairs and repair parts that are needed by the National Defense Reserve Fleet/Ready Reserve Force. The elimination of these tariffs will streamline MARAD's performance of its national security function with respect to the operation of these vessels.

Section nine allows MARAD to use funds received from a settlement for legally authorized purposes, including completion of repairs to the Fitch Building at the U.S. Merchant Marine Academy

Section ten would provide the Secretary with the authority to exclude vessels from the carriage of Government impelled cargoes that have been detained by the U.S. Coast Guard for violations of security standards contained within international agreements to which the United States is a party.

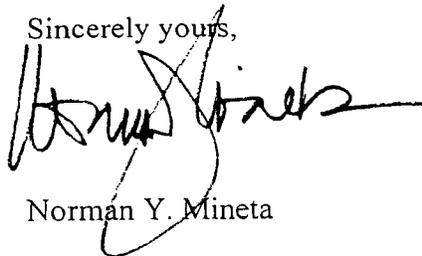
Section eleven would allow MARAD to retain funds received as a result of final judgments and settlements in the Vessel Operations Revolving Fund (VORF). It would thus provide a potential funding stream for the VORF to cover expenses that arise from time to time as a result of damage incurred to NDRF vessels at the hands of other parties.

Section twelve would extend to the Secretary of Transportation the authority to convey to U.S. territories and foreign governments obsolete vessels to be used as artificial reefs. Currently this authority is limited to the individual States of the United States. MARAD has been contacted by several foreign countries interested in obtaining obsolete vessels for use as artificial reefs. Due to the existing statutory constraints, MARAD has been unable to explore the possibility of conveying obsolete vessels to other countries for this purpose.

Finally, section thirteen would clarify the decades-old authority of the Saint Lawrence Seaway Development Corporation (SLSDC) to carry out the provisions of the Ports and Waterways Safety Act (PWSA) in the case of the Saint Lawrence Seaway. This delegation underlies enforcement of the joint U.S.-Canadian Seaway regulations governing vessel operations in the Seaway, operations of the SLSDC Vessel Traffic Center, and the SLSDC civil and criminal penalty referral authority.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation to Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Norman Y. Mineta", written over a circular stamp or seal.

Norman Y. Mineta

2 Enclosures

Identical letter to the President of the Senate  
Draft bill and section-by-section analysis

A BILL

To authorize appropriations for Fiscal Year 2004 for certain maritime programs of the Department of Transportation, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Maritime Administration Authorization Act for Fiscal Year 2004".

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2004.**

Funds are hereby authorized to be appropriated, as Appropriations Acts may provide, for the use of the Department of Transportation for the Maritime Administration as follows:

(a) OPERATIONS AND TRAINING.- For expenses necessary for operations and training activities, not to exceed \$104,400,000 for the fiscal year ending September 30, 2004, of which \$13,000,000 is for capital improvements at the U. S. Merchant Marine Academy, to remain available until expended.

(b) MARITIME GUARANTEED LOANS.- For administrative expenses related to loan guarantee commitments under Title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 *et seq.*) \$4,498,000.

(c) SHIP DISPOSAL.- For disposal of obsolete vessels in the National Defense Reserve Fleet, \$11,422,000, to remain available until expended.

**SEC. 3. AMENDMENTS TO TITLE V OF THE MERCHANT MARINE ACT, 1936—CONVEYANCE OF OBSOLETE VESSELS.** Section 508 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1158) is amended—

(a) by inserting before the text, on a separate line from the section heading, the following new subsection heading:

“(a) Authority to Scrap or Sell Obsolete Vessels.”; and

(b) by inserting a new subsection (b) to read as follows:

“(b) Authority to Convey Vessels.

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

“(A) the recipient is a non-profit organization, a State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof or the District of Columbia;

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

“(C) the recipient agrees to make the vessel available to the Government whenever the Secretary indicates that it is needed by the Government;

“(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead

paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government.

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

“(F) the recipient has provided proof, as determined by the Secretary, of resources sufficient to accomplish the transfer, necessary repairs and modifications, and initiation of the intended use of the vessel.

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

“(3) ADDITIONAL TERMS.- The Secretary may require any additional terms the Secretary considers appropriate.

“(4) DELIVERY OF VESSEL.- If conveyance is made under this subsection the vessel shall be delivered to the recipient at a time and place to be determined by the Secretary. The vessel shall be conveyed in an ‘as is’ condition.

“(5) LIMITATIONS.- If at any time prior to delivery of the vessel to the recipient, the Secretary determines that a different disposition of a vessel would better serve the interests of the Government, the Secretary shall pursue the more favorable disposition of the obsolete vessel and shall not be liable for any damages that may result from an intended recipient’s reliance upon a proposed transfer.”

**SEC. 4. AMENDMENTS TO TITLE IX OF THE MERCHANT MARINE ACT,  
1936—CARGO PREFERENCE.**

(a) CONSTRUCTION OF U.S.-FLAG TANK SHIPS.- Section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1)) is amended by striking the last proviso and inserting in its place the following:

“Provided, however, That the definition of a ‘privately owned United States-flag commercial vessel’ shall include a U.S. documented self-propelled tank vessel when the owner of such a vessel has notified the Maritime Administration in writing of the existence of an executed contract between the owner and a U.S. shipyard for the construction of two or more self-propelled, double hulled tank vessels to be documented under the laws of the United States, each to be capable of carrying more than two types of refined petroleum products. The definition shall apply to such a vessel for a three-year period commencing on the date the contract is executed for construction of the vessels and shall continue to apply to the vessel throughout the three-year period so long as the vessel remains documented under the laws of the United States.”.

(b) CONFORMING CARGO PREFERENCE YEAR TO FEDERAL FISCAL YEAR.- Section 901b(c)(2) of the Merchant Marine Act, 1936 (46 U.S.C App. 1241f(c)(2)) is amended by inserting after “1986” the following: “, the 18-month period beginning April 1, 2002, and the 12-month period beginning October 1, 2003, and each year thereafter.”.

**SEC. 5. AMENDMENTS TO TITLE XI OF THE MERCHANT MARINE ACT, 1936—LOAN GUARANTEES.-** Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C App. 1274(d)(1)) is amended—

(a) in subsection (d)(1) by adding at the end the following:

“(C) The Secretary may make a determination that aspects of an application under this title require independent analysis due to risk factors associated with markets, technology, financial structures or other risk factors identified by the Secretary. To the extent provided for in appropriations acts, the Secretary may charge a fee to the applicant to cover the cost of the independent analysis and may use the fees collected to pay for such costs. Any independent analysis conducted pursuant to this provision shall be performed by a party chosen by the Secretary. Authority is provided to permit the Maritime Administration to accept, collect, obligate and expend such fees in the Maritime Guaranteed loan Program account, to be used to reimburse the cost of independent analysis described above.

“(D) Notwithstanding any other provision of this title, the Secretary may make a determination that an application under this title requires additional equity because of increased risk factors associated with markets, technology, financial structures or other risk factors identified by the Secretary.

“(E) In determining whether to approve an application under this title, the Secretary may consider a proposed shipyard’s past performance on commercial projects including cost increases, quality of work and ability to meet work and delivery schedules. After consideration of these factors the Secretary may impose additional requirements on a shipyard, require additional security or disapprove an application.

“(F) The Secretary shall give priority to applications for the construction of double hull vessels intended to meet the construction requirements of the Oil Pollution Act of 1990.”; and

(b) in subsection (f) by striking “(including for obtaining independent analysis under subsection (d)(4))”.

**SEC. 6. AMENDMENTS TO TITLE XII OF THE MERCHANT MARINE ACT, 1936--WAR RISK INSURANCE.**

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

“(c) INSURING INTERNATIONAL OPERATIONS- The Secretary of Transportation is authorized, upon the request of the Secretary of Defense or any other agency, with the approval of the President, to make payments on behalf of the United States with regard to an international sharing of risk agreement or any lesser obligation on the part of the United States for vessels, regardless of registration or ownership, supporting operations of the North Atlantic Treaty Organization or similar international organization or alliance in which the United States is involved. Such vessels do not have to be under contract with a department or agency of the United States. In order to segregate moneys received and disbursed in connection with an agreement authorized under this section, a subaccount is authorized to be created within the insurance fund established under section 1208 of this Act.

“(d) RECEIPT OF CONTRIBUTIONS.- (1) Notwithstanding the provisions of section 3302(b) of title 31, United States Code, if the international agreements referenced in subsection (c) of this section provide for the sharing of risks involved in mutual or

joint operations, contributions for losses incurred by the fund subaccount or financed pursuant to section 1208, that are received from foreign entities, may be deposited in the fund subaccount.”.

“(2) Such risk sharing agreements shall not affect the requirement that the Secretary of Defense or a head of a department, agency, or instrumentality designated by the President make an indemnity agreement with the Secretary of Transportation under section (b) above for a waiver of premium on insurance obtained by a department, agency or instrumentality of the United States Government.”

“(3) If the Secretary of Defense, or a designated head of a department, agency or instrumentality, has made a payment to the Secretary of Transportation on account of a loss, pursuant to an indemnification agreement under section (b) above, and the Secretary of Transportation subsequently receives from an entity a contributory payment on account of the same loss, pursuant to a risk sharing agreement referred to in subsection (1), the amount of the contribution shall be deemed to be a credit in favor of the indemnifying department, agency, or instrumentality against any amount that such department, agency, or instrumentality owes or may owe to the Secretary of Transportation under a subsequent indemnification agreement.

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

“(c) To the extent that the fund balance is insufficient to fund current obligations arising under this chapter, there is hereby appropriated to the Secretary of Transportation such sums as may be necessary to pay such obligations.”

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

“1205. Insurance on property of Government departments, agencies and international organizations”.

**SEC. 7. AMENDMENTS TO TITLE XIII OF THE MERCHANT MARINE ACT, 1936—MARITIME EDUCATION AND TRAINING.**

(a) Section 1302 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a) is amended--

(1) in paragraph (3) by striking the last “and”;

(2) in paragraph (4)(B) by striking the period at the end and inserting “; and”; and

(3) by inserting at the end a new paragraph (5) to read as follows:

“(5) the term ‘cost of education provided’ means the financial costs incurred by the Federal Government for providing training or financial assistance to students at the U.S. Merchant Marine Academy and the state maritime academies. Such costs include, direct financial assistance, room, board, classroom academics, and other training activities.”.

(b) Section 1303(e) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(e)) is amended--

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

(2) by revising paragraph (1)(C) to read as follows:

“(C) to maintain a valid license as an officer in the merchant marine of the United States for at least 6 years following the date of

graduation from the Academy of such individual. The license must be accompanied by the appropriate national and international endorsements and certification as required by the United States Coast Guard for service aboard vessels on domestic and international voyages.”;

(3) by revising paragraph (1)(E)(iii) to read as follows:

“(iii) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or other maritime related employment with the Federal Government which serves the national security interests of the United States, as determined by the Secretary.”;

(4) by revising paragraph (2) to read as follows:

“(2)(A) If the Secretary determines that any individual who has attended the Academy for not less than 2 years has failed to fulfill the part of the agreement required by paragraph (1)(A), such individual may be ordered by the Secretary of Defense to active duty in one of the armed forces of the United States to serve for a period of time not to exceed 2 years. In cases of hardship as determined by the Secretary, the Secretary may waive this provision in whole or in part.

“(B) If the Secretary of the Navy is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary may recover from the individual the cost of education provided by the Federal Government.”;

(5) by revising paragraph (3) to read as follows:

“(3)(A) If the Secretary determines that an individual has failed to fulfill any part of the agreement required by paragraph (1), as described in subparagraphs (1)(B), (C), (D), (E), or (F), such individual may be ordered to active duty to serve a period of time not less than three years and not more than the unexpired portion, as determined by the Secretary, of the service required by paragraph (1)(E). The Secretary, in consultation with the Secretary of Defense, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship, as determined by the Secretary, the Secretary may waive this provision in whole or in part.

“(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary may recover from the individual the cost of education provided in an amount proportionate to the unfulfilled portion of the service obligation as determined by the Secretary. In cases of hardship the Secretary may waive this provision in whole or in part.”;

and

(6) by re-designating paragraph (4) as paragraph (5) and inserting a new paragraph (4) after paragraph (3) to read as follows:

“(4) To aid in the recovery of the cost of education provided by the Federal Government pursuant to a commitment agreement under this section, the Secretary may request the Attorney General to begin court proceedings, or the

Secretary may make use of the federal debt collection procedures in chapter 176 of title 28 United States Code or other applicable administrative remedies.”.

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

“(g) Degrees Awarded. (1) The Superintendent of the Academy may confer the degree of bachelor of science upon any individual who has met the conditions prescribed by the Secretary and who, if a citizen of the United States, has passed the examination for a merchant marine officer's license. No individual may be denied a degree under this subsection because the individual is not permitted to take such examination solely because of physical disqualification.

“(2) The Superintendent of the Academy may confer a masters degree upon any individual who has met the conditions prescribed by the Secretary. Any master's degree program may be funded through non-appropriated funds. In order to maintain the appropriate academic standards, the program shall be accredited by the appropriate accreditation body. The Secretary may make regulations necessary to administer such a program.”.

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

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

(2) in paragraph (3)(A) by striking “, unless the individual is separated by such academy”;

(3) by revising paragraph (3)(C) to read as follows:

“(C) to maintain a valid license as an officer in the merchant marine of the United States for at least 6 years following the date of graduation from such State maritime academy of such individual. The license must be accompanied by the appropriate national and international endorsements and certification as required by the United States Coast Guard for service aboard vessels on domestic and international voyages.”;

(4) by revising paragraph (3)(E)(iii) to read as follows:

“(iii) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime related employment with the Federal Government which serves the national security interests of the United States, as determined by the Secretary.”;

(5) by revising paragraph (4) to read as follows:

“(4)(A) If the Secretary determines that an individual who has accepted the payment described in paragraph (1) for a minimum of two academic years has failed to fulfill the part of the agreement required by paragraph (1) and described in paragraph (3)(A), such individual may be ordered by the Secretary of the Navy to active duty in the United States Navy to serve for a period of time not to exceed two years. In cases of hardship, as determined by the Secretary, the Secretary may waive this provision in whole or in part.

“(B) If the Secretary of the Navy is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of

Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary may recover from the individual the cost of education provided by the Federal Government.”;

(6) by revising paragraph (5) to read as follows:

“(5)(A) If the Secretary determines that an individual has failed to fulfill any part of the agreement required by paragraph (1), as described in paragraphs (3)(B), (C), (D), (E), or (F), such individual may be ordered to active duty to serve a period of time not less than two years and not more than the unexpired portion, as determined by the Secretary, of the service required by paragraph (3)(E). The Secretary, in consultation with the Secretary of Defense, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship, as determined by the Secretary, the Secretary may waive this provision in whole or in part.

“(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary may recover from the individual the cost of education provided in an amount proportionate to the unfulfilled portion of the service obligation as determined by the Secretary. In cases of hardship the Secretary may waive this provision in whole or in part.”;

and

(7) by re-designating paragraphs (6) and (7) as paragraphs (7) and (8) respectively, and inserting a new paragraph (6) after paragraph (5) to read as follows:

“(6) To aid in the recovery of the cost of education provided by the Federal Government pursuant to a commitment agreement under this section, the Secretary may request the Attorney General to begin court proceedings, or the Secretary may make use of the federal debt collection procedures in chapter 176 of title 28 United States Code or other applicable administrative remedies.”.

(e) Section 1306 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295e) is amended by adding at the end the following new subsection:

“(d) Awards and Medals. The Secretary may establish and maintain a medals and awards program to recognize distinguished service, superior achievement, professional performance, and other commendable achievement by personnel of the United States Maritime Service.”.

## **SEC. 8. ELIMINATION OF TARIFFS ON CERTAIN NATIONAL DEFENSE ACTIVITIES.**

(a) DUTY- FREE TREATMENT FOR EMERGENCY WAR MATERIALS IMPORTED FOR USE BY THE MARITIME ADMINISTRATION.- (1) The superior text to subheading 9808.00.30 of Chapter 98 of the Harmonized Tariff Schedule of the United States is amended by inserting after the word “departments” the words “or the Maritime Administration”.

(2) Subheading 9808.00.30 of Chapter 98 of the Harmonized Tariff Schedule of the United States is re-designated as 9808.00.35.

(3) The amendments made in this subsection shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of enactment of this Act.

(b) **ELIMINATION OF AD VALOREM TAX ON FOREIGN REPAIRS MADE TO VESSELS OPERATED AS PART OF THE NATIONAL DEFENSE RESERVE FLEET.**- Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and inserting after subsection (f) the following new subsection:

“(g) National Defense Reserve Fleet Exception. The duty imposed under subsection (a) shall not apply to the cost of equipment, or any part thereof purchased, of repair parts or materials used, or of repairs made in a foreign country for any vessel operated as part of the National Defense Reserve Fleet when the vessel is under the jurisdictional control of the Department of Defense.”.

#### **SEC. 9. USE OF INSURANCE PROCEEDS FOR REPAIRS AT U.S.**

##### **MERCHANT MARINE ACADEMY.**

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

#### **SEC. 10. PROHIBITION AGAINST CARRYING GOVERNMENT IMPELLED CARGOES FOR VESSELS WITH SUBSTANDARD SECURITY MEASURES.**

Section 2302 of title 46, United States Code is amended—

(a) in subsection (e)(1)(A) by inserting “including violations for substandard security measures,” after the word “party,”; and

(b) in subsection (e)(1)(B) by inserting “including violations for substandard security measures,” after the word “party,”.

**SEC. 11. AVAILABILITY TO THE VESSEL OPERATIONS REVOLVING FUND OF FUNDS FROM LAWSUITS AND SETTLEMENTS.** The Vessel Operations Revolving Fund (VORF), created by the Third Supplemental Appropriations Act, 1951 (65 STAT. 59), shall, after the date of enactment of this Act, be credited with amounts received by the United States from final judgments and dispute settlements that arise from the operation of vessels in the National Defense Reserve Fleet, including the Ready Reserve Force. Funds credited to the VORF under this section shall be available until expended.

**SEC. 12. AUTHORITY TO CONVEY OBSOLETE VESSELS TO U.S. TERRITORIES AND FOREIGN COUNTRIES FOR REEFING.**

(a) Section 1220, Title 16, United States Code, is amended to read as follows:

“(a)(1) Not later than September 30, 2003, the Administrator of the Environmental Protection Agency and the Secretary of Transportation, acting through the Maritime Administration, shall jointly develop guidance recommending environmental best management practices to be used in the preparation of vessels for use as artificial reefs. Before issuing the guidance, the Administrator and the Secretary shall consult with interested Federal and State agencies.

“(2) The guidance referred to in paragraph (a)(1) shall —

“(A) recommend environmental best management practices for the preparation of vessels that would ensure that the use of vessels so prepared as artificial reefs would be environmentally beneficial;

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

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

“(3) The guidance referred to in paragraph 1 shall serve as national guidance for Federal agencies preparing vessels for use as artificial reefs.

“(4) The Secretary of Transportation shall submit to Congress a report on the environmental best management practices developed under paragraph (a)(1) through the existing ship disposal reporting requirements in section 3502 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106-398. The report shall describe such practices, and may include such other matters as the Secretary considers appropriate.

“(b) a State, commonwealth, possession of the United States or foreign government shall apply for obsolete vessels under this Act in such a manner and form as the Secretary shall prescribe, but such application shall state at a minimum (1) the location at which the applicant proposes to sink the vessel or vessels, and (2) the environmental goals to be achieved by the use of the vessel or vessels. State, U.S. commonwealths or U.S. possessions shall also provide to the Secretary and the Administrator in their application documentation that the proposed use of the particular vessel or vessels requested will comply with all applicable water quality standards and will benefit the environment in the vicinity of the proposed reef, taking into account the

guidance referred to in paragraph (a)(1) and other appropriate environmental considerations. Before any vessel may be used as an artificial reef, the State, commonwealth, or possession of the United States shall demonstrate to EPA, and EPA shall determine in writing, that the use of the vessel as an artificial reef at the proposed location will be environmentally beneficial. Foreign governments shall also provide to the Secretary and the Administrator in their application documentation of the following: 1) how the proposed use of the vessel or vessels will benefit the environment; 2) remediation that the vessel(s) will undergo prior to use as an artificial reef; and 3) a certification that such remediation shall take into account the guidance referred to in paragraph (a)(1). No obsolete vessel or vessels shall be conveyed unless Maritime Administration and EPA jointly determine, in writing, that the proposed remediation measures will ensure that use of the vessel(s) as an artificial reef(s) will be environmentally beneficial. The contract conveying the vessel or vessels from Maritime Administration to the foreign government shall require the use of the remediation measures determined by Maritime Administration and EPA to ensure that use of the vessel or vessels as an artificial reef will be environmentally beneficial.

(c) Nothing in this section shall be construed as affecting in any manner the application of any other provision of law, including laws relating to the conveyance of obsolete vessels, their distribution in commerce, or their use as artificial reefs.”

**SEC. 13. MAINTENANCE OF CURRENT SAINT LAWRENCE SEAWAY  
DEVELOPMENT CORPORATION SAFETY RESPONSIBILITIES.**

Section 3(2) of the Ports and Waterways Safety Act (33 U.S.C. 1222(2)) is

amended by striking the period after the word “operating” and inserting “, except that ‘Secretary’ means the Secretary of Transportation with respect to the applicability of this Act to the Saint Lawrence Seaway.”.

## Section-by-Section Analysis

### Section 1. Short Title.

Section 1 states the short title of the proposal, the "Maritime Administration Authorization Act for Fiscal Year 2004".

### Section 2. Authorization of Appropriations for Fiscal Year 2004.

Section 2 of the proposal authorizes appropriations for the Maritime Administration (MARAD) and related programs at the funding levels contained in the President's budget for Fiscal Year 2004.

Section 2(a) authorizes \$104,400,000 for MARAD operations and training activities, of which \$42,022,000 is authorized for MARAD operations. Operations and training activities include the costs incurred by headquarters and region staffs in the administration and direction of the various MARAD programs, which cut across the American maritime industries, such as:

- ☛ Emergency planning and operations, including administration of the Maritime Security Program agreements.
- ☛ Negotiation of agreements, understandings and arrangements to reduce barriers that restrict American access to foreign ports and markets.
- ☛ Port, intermodal, and environmental activities.
- ☛ Labor, training, and safety activities.
- ☛ Administration of the capital construction fund/construction reserve fund.
- ☛ Monitoring compliance with cargo reservation statutes.

Operations and training funds authorized include \$52,915,000 for the operation of the United States Merchant Marine Academy (USMMA) at Kings Point, New York, and \$9,463,000 for continuing assistance to the six state maritime academies.

Of the total authorized for the USMMA, \$13,000,000 is included for capital improvements to remain available until expended. The \$13,000,000 will provide much needed resources for the USMMA to continue capital improvements based on its Facilities Master Plan. Having these funds available until expended will allow the USMMA to award major construction projects efficiently and optimally. Additionally, continued availability of non-expiring funding allows the USMMA to negotiate better pricing and efficiently combine construction contract deliverables in a logical order that will optimize the Government's investment.

The USMMA offers a four-year undergraduate program that leads to a Bachelor of Science degree and to a merchant marine license as Third Mate or Third Assistant Engineer. In addition, students are enrolled as midshipmen and are commissioned upon graduation as ensigns

in the U.S. Naval Reserve. In exchange for the cost of their education, graduates assume a service obligation. USMMA graduates are required to serve as officers in the U.S. merchant marine for five years. If afloat billets are not available, they must seek employment in a maritime related field. Graduates must also maintain their U.S. Coast Guard issued license for six years and fulfill a Naval Reserve obligation of at least six years. Graduates may also fulfill their service obligation by entering active duty in any of the U.S. armed forces or the National Oceanic and Atmospheric Administration.

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

Of the total authorized for the State maritime academies, \$7,063,000 shall remain available until September 30, 2005 for State Maritime Schools/Schoolship Maintenance and Repair. Schoolships are maintained on five-year cycles based on domestic and international rules governing drydocking intervals, safety and material condition inspection intervals, and machinery and equipment inspections and surveys. Annual funding constrains the scheduling and performance of this work, particularly when repair periods fall at or near the fiscal year boundary. Major maintenance requirements, such as drydocking, also must be done prior to training voyages that generally happen early in the calendar year. Having funds available for two years will significantly improve the ability to schedule and more cost-effectively perform critical maintenance and repair of the ships, and will promote the ability to negotiate better pricing at no net increase in program cost.

Operations and training funds in the amount of \$655,653, in conjunction with carryover funds previously appropriated, will also allow MARAD to continue to carry out its duties regarding the citizenship of certain fishing vessels, contained in the American Fisheries Act established by P.L. 105-277, the Omnibus Appropriations Act for Fiscal Year 1999. Among other things, the measure designates MARAD as the primary agency responsible for ensuring that the proper citizenship requirements are adhered to for ownership of vessels 100 feet or greater that have, or are seeking, a fisheries endorsement to their documentation. In enforcing citizenship standards, MARAD is required to scrutinize transfers of ownership or control rigorously, with particular attention to leases, charters, mortgages, and financing arrangements for fishing vessels. Further, MARAD approves qualified trustees to hold mortgages where vessel financing is procured through foreign lenders. MARAD is also required to determine, upon request, whether an individual or an entity has exceeded the statutory limitation on harvesting or processing of pollock in the pollock fishery.

Implementation of the American Fisheries Act by MARAD was accomplished by the effective date of the statute on October 1, 2001. The required Affidavit of U.S. Citizenship was submitted by the owners of nearly 500 vessels and reviewed by MARAD. Thereafter, annual

reviews of U.S. citizenship status have been conducted. In addition, MARAD will begin implementation of new standards for lenders and mortgagees, which go into effect on April 1, 2003.

Operations and training funds will also allow MARAD to continue to monitor and make findings and recommendations concerning the condition of the marine transportation system (MTS). The MTS provides American businesses with competitive access to suppliers and markets in an increasingly global economy. Over 95% of our overseas trade moves in or out of the Nation by ship. Maintaining an effective and efficient MTS is vital to the economic and national security of the nation.

Section 2(b) of the proposal contains an authorization for \$4,498,000 for administrative costs associated with the management of the existing portfolio of loan guarantees under the maritime guaranteed loan program under Title XI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1271 *et seq.*). Title XI authorizes the Secretary of Transportation (delegated to the Maritime Administrator) to enter into commitments to guarantee private-sector debt financing for the construction or reconstruction of U.S.-flag vessels and export vessels in U.S. shipyards, and for U.S. shipyard modernization and improvement projects. No additional funding is authorized for Title XI loan guarantees during FY 2004. MARAD will continue to manage the loan portfolio and financial activity in the program using the funds requested for program administration.

Section 2(c) authorizes \$11,422,000 for ship disposal. This funding would enable MARAD to dispose of vessels in the National Defense Reserve Fleet that pose the highest risk to the environment. Included in these funds are staff and support costs associated with program implementation. MARAD will contract with dismantling facilities seeking best-value disposal consistent with its responsibility as outlined in section 3502 of P.L. 106-398, the Department of Defense Authorization Act for Fiscal Year 2001 and section 3504 of P.L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003.

### **Section 3. Amendments to Title V of the Merchant Marine Act, 1936—Conveyance of Obsolete Vessels.**

This section amends the Merchant Marine Act, 1936 to give the Secretary of Transportation the authority to convey obsolete National Defense Reserve Fleet vessels to non-profit organizations, a State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof or the District of Columbia. This provision would end the need for special legislation each time a veteran's group, museum, historical association or other non-profit organization, state or municipality seeks to obtain an obsolete vessel from the National Defense Reserve Fleet. It would also provide the Secretary of Transportation with administrative authority to oversee the conveyance of such vessels to non-profit groups.

Under this provision, vessel recipients must agree not to use the vessel for commercial transportation purposes, to make the vessel available to the Government when needed, and to hold the Government harmless for exposure to hazardous substances. Prior to conveyance, the

Secretary would approve conveyance and business plans of the recipient and ascertain that the recipient has sufficient resources to accomplish the transfer and commence with the intended use of the vessel. The Secretary is also authorized to provide to the recipient additional equipment from other obsolete vessels to assist the recipient with maintenance, repairs or modifications. If at any time prior to delivery of the vessel the Secretary determines that a different use of the vessel would better serve the interests of the Government, the Secretary may terminate the proposed transfer without liability.

#### **Section 4. Amendments to Title IX of the Merchant Marine Act, 1936—Cargo Preference.**

Section 4(a) would amend section 901(b) of the Merchant Marine Act, 1936, commonly referred to as the Cargo Preference Act of 1954, to allow, under certain circumstances, otherwise unqualified U.S.-flag vessels to carry preference cargo reserved for qualified U.S. vessels. Unqualified U.S.-flag tank vessels would be considered qualified so long as the owner of the U.S.-flag vessel had entered into a contract with a U.S. shipyard for the construction of no fewer than two self-propelled, double-hulled product tankers to be documented under the laws of the United States, each to be capable of carrying more than two types of refined petroleum products. Once a vessel has been deemed qualified, it continues to be qualified throughout the three-year period, during which it would otherwise be unqualified, so long as it continues to be documented under the laws of the United States.

It is anticipated that this limited waiver would provide an incentive to build tank vessels in the United States to help meet cargo preference and domestic petroleum transportation needs. At least two recent studies have indicated that there is likely to be a shortage of U.S.-flagged product tankers for strategic sealift purposes by the year 2006. It is anticipated that this provision will help to alleviate that shortage and provide support for the U.S. shipbuilding industry.

Section 4(b) would amend Section 901(b)(c)(2) of the Merchant Marine Act, 1936, to make the cargo preference year coincide with the Federal Government Fiscal Year for determining compliance with Title IX. This would simplify record keeping and management of the program without an adverse effect on involved agencies or shippers, and is supported by Government and industry stakeholders.

#### **Section 5. Amendments to Title XI of the Merchant Marine Act, 1936—Loan Guarantees.**

Section 5 would expand upon existing statutory authority that allows MARAD to consult with independent parties during the analysis of an application for Title XI loan guarantees. This section would help to describe the conditions under which independent analysis might be required. It would also make clear that such analysis would be conducted by a party chosen by the Secretary and would be paid for by the applicant. This section would also make a conforming amendment to remove previous statutory language concerning independent analysis of pending projects. The placement of the current language under “investigations” (see, section 1104A(f) of the Merchant Marine Act, 1936) inhibits MARAD’s ability to require the applicant

to pay for an independent analysis. The cost of investigations is currently capped at one half of one percent of the principal amount of the obligation to be guaranteed. Routine investigations conducted by MARAD generally cost at least this much. By establishing the authority to conduct independent analyses separate from investigations, MARAD will be able to require applicants to pay for the additional costs associated with these activities without impinging upon the cost cap for routine investigations.

Section 5 would also authorize the Secretary to make a determination concerning the level of equity necessary for a pending title XI application, based upon the risk factors associated with a proposed project. Additionally, the Secretary would be authorized to consider the past performance history of the shipyard proposed for a particular project. Based upon the past performance of a shipyard, the Secretary would be authorized to adjust the level of equity required or disapprove a pending application.

Section 5 would also authorize the Secretary to give priority to applications pending for the construction of Oil Pollution Act of 1990-compliant double hulled vessels.

Finally, section 5 would make a conforming amendment to remove duplicative language concerning authority to conduct independent investigations.

#### **Section 6. Amendments to Title XII of the Merchant Marine Act, 1936—War Risk Insurance.**

This section would enable the Department of Transportation to support shared logistics operations with the North Atlantic Treaty Organization or similar international organization or alliance. The statutory ability to pay the United States' portion of a shared loss pursuant to an agreement with these organizations would allow the sharing of risk of loss between multiple countries. Such a provision would allow greater use of foreign vessels and distribute the risk of loss of a ship during a contingency to these carriers. Currently there is a disproportionate reliance on U. S.-flag carriers, and thus an increased risk of loss, to the U.S. Government.

The changes also would allow the receipt of contributions from other countries within the North Atlantic Treaty Organization or other similar international organizations to offset losses sustained by United States flag carriers participating in shared logistics operations that are insured under this program. These contributions would be deposited in the fund and would relieve the Department of Defense or another United States Department or Agency, of the obligation to reimburse the fund to the extent of any contributions received.

The proposed addition to section 1208 of the Merchant Marine Act, 1936 would provide the Secretary of Transportation with the authority to obtain sufficient funds to cover liabilities incurred in providing war risk insurance, including losses in support of NATO or other shared logistics operations. This authority could also be used to cover any deficiencies that might arise under the Secretary's authority to provide war risk insurance to commercial carriers pursuant to

section 1202 of the Act. Title XII authorizes two basic forms of war risk insurance. Section 1202 addresses commercial vessels in commercial trade, while Section 1205 addresses vessels that are under charter or in the employ of the Department of Defense. The Department of Transportation is currently authorized to provide war risk insurance under section 1202. The insurance is available for areas currently excluded in commercial war risk trading warranties: the Persian or Arabian Gulf and adjacent waters, Israel, Lebanon, Gulf of Aqaba and the Red Sea, Yemen, Pakistan, Oman, Syria, and Egypt.

While the Secretary of Transportation is fully indemnified by the Department of Defense when writing section 1205 war risk insurance, that is not the case under section 1202. When MARAD provides war risk insurance for commercial vessels under section 1202, the Department of Transportation is at risk for any losses. Currently, MARAD has only \$32 million in reserve for such losses. The spending authority under Section 6 provides the Secretary with a mechanism to fund any deficiencies that may arise and would prevent violation of the Anti-Deficiency Act.

### **Section 7. Amendments to Title XIII of the Merchant Marine Act, 1936—Maritime Education and Training.**

Section 7 amends enforcement of the commitment agreements for students at the United States Merchant Marine Academy (USMMA) and students at the state maritime academies who receive student incentive payments (SIP). Currently, students have an obligation to complete the course of instruction at USMMA or the state academy unless the individual is separated by the Academy. Students that leave USMMA voluntarily after spending two years at the Academy may be required to serve on active duty in the Navy. This section amends current law such that USMMA students and SIP recipients who have attended an academy for two or more years may be required to serve on active duty or reimburse the Government for educational expenses if the Secretary of Transportation determines that such individual has breached their service agreement. If for any reason the individual is not ordered to active duty, the Secretary may seek to recover the educational costs provided. This change will bring the service obligation of maritime academy students more in line with the requirements of students at the other federal service academies.

Section 7 also amends current law with respect to the enforcement of the post-graduate service obligation for graduates of the Merchant Marine Academy and State academy graduates who received SIP payments. This section makes it clear that if a graduate fails to fulfill the service obligation agreed to, that individual may either be ordered to active duty in one of the armed services or may be required to reimburse MARAD for educational costs covered. Under this section, the Secretary of Transportation would have the option of either recovering educational costs or seeking to have the individual ordered to active duty, whichever better serves the interest of the United States. If for any reason the individual is not ordered to active duty, the Secretary may seek to recover the educational costs in an amount proportionate to the unfulfilled portion of the service agreement as determined by the Secretary. This amendment will bring the service obligation of maritime academy students more in line with the requirements of students at the other Federal service academies.

Additionally, Section 7 would expand the options available to the Secretary for recovery of the educational expenses provided to an individual that has breached a service agreement. Currently, the Secretary is authorized only to request the Attorney General to commence court proceedings to recover such costs. New language under sections 7(b) and 7(d) would, in order to aid in the recovery of educational expenses, authorize the Secretary to seek the assistance of the Attorney General or use Federal debt collection procedures or other applicable administrative remedies.

Section 7 also amends the post-graduate commitment for Merchant Marine Academy and State academy SIP recipient graduates to require them to maintain a valid license with appropriate endorsements and certification as required by the Coast Guard for service aboard vessels on domestic or international voyages. Currently, USMMA graduates and SIP recipients are required only to maintain a license as an officer in the merchant marine. The additional requirement imposed by this section has become necessary in light of the International Convention for the Standards of Training Certification and Watch-keeping (STCW). Under STCW, mariners must also possess, in addition to their license, an STCW certificate for service aboard vessels on international voyages. Mandating this certification will ensure that Academy graduates possess the license and any additional certification necessary to meet the economic and national security sealift needs of the United States.

Section 7 also expands the options available to Merchant Marine Academy graduates and State academy SIP recipients to allow them to fulfill their service obligation by accepting, for a minimum of five years, Federal maritime related employment. The focus of such employment must be to serve the national security interests of the United States. Such employment would be considered equivalent to sea service or active service in the armed forces or NOAA.

Section 7 would change the amount of Student Incentive Payments (SIP) made to State maritime academy students from \$3,000 to \$4,000 annually. The increase will help offset the increasing costs of higher education and serve as an incentive for students at State maritime academies to commit themselves to an obligation to serve the maritime and national security needs of the United States. This increase would have no effect on the Department's overall budget request because increased payments would be allocated to a fewer number of recipients.

Section 7 would also authorize the Superintendent of the Merchant Marine Academy to confer a masters degree upon any individual who has met the regulatory conditions prescribed by the Secretary for a particular masters program administered by the Academy. Any such program must be accredited by the appropriate accreditation entity. The program would be funded through a non-appropriated fund instrumentality.

Finally, section 7 would authorize the Secretary to establish a medals and awards program as part of the existing United States Maritime Service. The awards program would allow the Secretary to recognize distinguished service, and other commendable achievements by personnel of the United States Maritime Service.

## Section 8. Elimination of Tariffs on Certain National Defense Activities.

Section 8(a) of the bill would amend the Harmonized Tariff Schedule of the United States to provide for duty free treatment of emergency war materials imported for use by the Maritime Administration (MARAD). This proposal would streamline and make more efficient MARAD's performance of vital national security functions in its support of the Department of Defense (DoD).

MARAD provides assured, responsive shipping to support the deployment of military forces worldwide using its National Defense Reserve Fleet (NDRF) and the Ready Reserve Force (RRF), which is part of the NDRF. MARAD's fleet is a key element of the Navy's Strategic Sealift Program. MARAD maintains 72 RRF vessels in a high state of readiness to provide for the nation's sealift requirements in times of war or national emergencies.

The availability of these ships is essential to the deployment of DoD forces and equipment. The RRF fleet has been heavily relied upon in the past, including recent activations in support of the war in Afghanistan and activities in the Persian Gulf. When deployed, the vessels, maintained by MARAD, are turned over to the Navy's Military Sealift Command (MSC) for operational control. They do not engage in commercial activities.

Currently, 24 of the vessels that make up the fleet are foreign constructed vessels. Another seven vessels that are not foreign built are equipped with foreign made items. To maintain the vessels in a constant state of readiness, MARAD must regularly import foreign made spare parts, repair parts, equipment and supplies. MARAD berths vessels along all U.S. coasts; therefore, imports can occur in any Customs region or district.

The imports necessary to maintain this large fleet of vessels cause MARAD to incur a large amount of customs duties. Since MARAD vessels are maintained for the operational control of MSC, and are required for rapid deployment during national emergencies, the supplies and equipment needed to maintain the vessels should be accorded the same type of duty-free exemption for emergency war materials that is extended to DoD.

Additionally, vessels documented under the laws of the United States are subject to the duty on foreign repairs. MARAD's NDRF and RRF vessels are documented under the laws of the United States. Section 8(b) of the bill would amend 19 USC 1466 by adding a new subsection to exempt activated NDRF vessels from paying duties on repairs made in foreign countries.

Due to the varying nature of their missions, NDRF/RRF vessels are frequently deployed overseas for extended periods, making periodic foreign repairs unavoidable. Because NDRF/RRF vessels are documented vessels, they are required to pay an ad valorem tax of 50 percent of the cost of any repairs received abroad. Payment of the tax is an unnecessary and substantial drain on MARAD, DOD and Customs resources. These ships do not engage in commercial activities.

Although the ad valorem tax is intended to serve as an incentive for vessel operators to repair their vessels in United States shipyards, the provision is not practical when applied to government owned vessels engaged in national security functions. Furthermore, under 10 U.S.C. 7310, vessels under the jurisdiction of the Secretary of the Navy are prohibited from making foreign repairs other than voyage repairs. Because activated NDRF/RRF vessels fall under the operational control of the Navy, 10 U.S.C. 7310 provides sufficient protection to U.S. shipyards without impinging upon the operational efficiencies and national security objectives of MARAD's ships.

Section 8(b) would exempt MARAD from paying the ad valorem tax and processing the associated paperwork, thereby streamlining and making more efficient MARAD's performance of vital national security functions in its support of DOD.

### **Section 9. Use of Insurance Proceeds for Repairs at the Merchant Marine Academy.**

This section would allow MARAD to use funds received from a settlement for legally authorized purposes, including completion of repairs to the Merchant Marine Academy, Fitch Building. On December 16, 1996, a fire occurred in the Fitch Building at the Merchant Marine Academy. Damages were estimated as being in excess of \$1,100,000 to the building and a loss of materials stored at the building. MARAD contended that a contractor working on the building was at fault. After unsuccessful negotiations and commencement of litigation, a settlement for \$708,100 was agreed to.

To date, the U.S. Merchant Marine Academy has only been able to repair a portion of the damages, and at a cost to the financing of other projects. If the contractor had repaired the damage to the Fitch Building without the need for litigation, there would be no need to return the funds received to the Treasury as a miscellaneous receipt. Allowing MARAD to use the settlement funds to repair the Fitch Building would allow for the repair of damage for which the funds were meant to compensate.

### **Sec. 10. Prohibition Against Carrying Government Impelled Cargoes for Vessels With Substandard Security Measures.**

Current law prevents vessels that have been detained by the U.S. Coast Guard for violations of international safety agreements from being allowed to carry U.S. Government impelled cargoes for up to one year after the detention. This section would provide the Secretary with the authority to also exclude vessels from the carriage of Government impelled cargoes that have been detained for violations of security standards contained within international agreements to which the United States is a party.

### **Sec. 11. Availability to the Vessel Operations Revolving Fund (VORF) of Funds from Final Judgments or Settlements.**

The VORF fund was created in 1951 to carry out vessel operating functions of the Secretary of Transportation, including charter, operation, maintenance, repair, reconditioning,

and betterment of merchant vessels under the jurisdiction of the Secretary of Transportation. This provision would allow MARAD to retain funds received as a result of final judgments and settlements in the VORF. It would thus provide a potential funding stream for the VORF to cover expenses that arise from time to time as a result of damage incurred to NDRF vessels at the hands of other parties.

### **Section 12. Authority to Convey Obsolete Vessels to U.S. Territories and Foreign Countries for Reefing.**

The section would extend to the Secretary of Transportation the authority to convey to U.S. territories and foreign governments obsolete vessels for use as artificial reefs. Currently, this authority is limited to the individual states of the United States. MARAD has been contacted by several foreign countries interested in obtaining obsolete vessels for use as artificial reefs. Due to the existing statutory constraints MARAD has been unable to explore the possibility of conveying obsolete vessels to other countries for this use. This section also sets forth the information that a State, commonwealth or foreign government would be required to provide when applying for the use of a vessel as an artificial reef, and the determinations that would need to be made prior to conveyance of the vessel. This section builds upon the existing framework for similar conveyances to States and presents broader opportunities for MARAD to dispose of its fleet of obsolete vessels at no cost to the Government.

The section would also direct the Administrator of the Environmental Protection Agency and the Secretary of Transportation, in consultation with other interested Federal and State agencies, to jointly develop guidance recommending environmental best management practices to be used in the preparation of vessels to be used as artificial reefs. The guidance developed would serve as national guidance for Federal agencies preparing vessels for use as artificial reefs. The Secretary of Transportation would report on the environmental best practices developed through the existing ship disposal reporting requirements.

### **Section 13. Maintenance of Current Saint Lawrence Seaway Development Corporation Safety Responsibilities.**

This section would clarify the decades-old authority of the Saint Lawrence Seaway Development Corporation (SLSDC) to carry out the provisions of the Ports and Waterways Safety Act (PWSA) in the case of the Saint Lawrence Seaway. The Ports and Waterways Safety Act specifies that certain authorities over vessel operations in the Seaway “shall not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation” (33 U.S.C. 1229). These duties were delegated to the Saint Lawrence Seaway Development Corporation by the Secretary of Transportation (49 CFR 1.52). This delegation underlies enforcement of the joint U.S.-Canadian Seaway regulations governing vessel operations in the Seaway, operations of the SLSDC Vessel Traffic Center, and the SLSDC civil and criminal penalty referral authority. However, the underlying statute, the Ports and Waterways Safety Act, vested authority in the Secretary of the Department of Homeland Security. This amendment would clarify the Corporation’s continuing authority under the delegation and statute to regulate vessel traffic in the Seaway, in conjunction with the 1954

agreement between Canada and the United States governing vessel traffic in the Seaway, and subsequent agreements. The amendment would retain the current definition for most purposes, with the exception of those specific authorities for which only the SLSDC may be designated. The authority of the Coast Guard for security matters under the PWSA (33 U.S.C. 1226) would not be affected by the proposed amendment, which is intended to maintain the status quo.

##