THE WHITE HOUSE

WASHINGTON

June 12, 2026

The Honorable Mike Johnson
Speaker of the
House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed is a legislative proposal package developed pursuant to Executive Order 14269 on "Restoring America's Maritime Dominance" and the Administration's Maritime Action Plan published on February 13, 2026. These legislative proposals will further the President's initiative to revitalize our domestic maritime industry and protect the economic and national security interests of the United States.

Less than one percent of new commercial ships delivered each year are built in the United States. Decades of neglect for our Nation's shipyards and maritime industry have left us poorly positioned and without the capacity necessary to scale up the domestic shipbuilding industry when needed to meet national priorities. This Administration has sought to reverse decades of underinvestment, and this legislative proposal package requests needed authorities to accomplish that mission.

The enclosed legislative proposal package requests additional authorities to promote investment into the maritime industrial base, improve the competitiveness of U.S.-flagged internationally trading vessels, and expand educational opportunities for individuals to enter the maritime workforce. Enactment of these proposals is a vital step toward restoring America's maritime dominance. Additional proposals to accomplish this goal may also be transmitted as necessary upon their completion.

Sincerely,

Russell Vought
Director of the Office of
Management and Budget

Marco Rubio
National Security Advisor

Enclosure

Table of Contents

SEC.___. MARITIME SECURITY TRUST FUND.

(a) In General.—Chapter 98 of subtitle I of title 26, United States Code, is amended by inserting after Section 9511 the following new section:

"Sec. 9512. Maritime Security Trust Fund.

"(a) Maritime Security Trust Fund Established.—

"(1) Establishment.—There is established in the Treasury of the United States a trust fund to be known as the Maritime Security Trust Fund, consisting of such amounts as may be appropriated or credited into the Maritime Security Trust Fund as provided in this section and codified at section 50310 of title 46, United States Code.

"(2) Purpose.—The amounts derived from the Maritime Security Trust Fund may be used to carry out programs and activities that support the United States merchant marine, marine science and research, and the maritime industrial base as authorized in subsection (b).

"(b) Authorized Expenditures.—Amounts in the Maritime Security Trust Fund shall be available, as appropriated, for purposes of making expenditures—

"(1) for programs and activities authorized under subtitle V of title 46;

"(2) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in paragraph (1);

"(3) upon concurrence by Secretary of Transportation, for Department of the Navy security and counterintelligence activities supporting ship construction, repair facilities, the U.S. flagged commercial fleet, U.S. mariners, and port infrastructure, when those activities are intended to ensure security and resiliency of military sealift capability; and

"(4) upon concurrence by the Secretary of Transportation, for the Department of Homeland Security activities supporting maritime security, research, training, and authorized revenue enforcement and collection, when those activities are intended to ensure the security and resiliency of maritime infrastructure, the maritime industrial base, and the merchant marine.

"(c) Transfers.—

"(1) In general.—There is hereby deposited into the Maritime Security Trust Fund amounts equivalent to each of the following:

"(A) The taxes received in the Treasury under the following sections of title 46, United States Code section 60301 (relating to regular tonnage taxes);

"(B) The revenue collected from duties imposed under section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) (relating to equipment and repair of vessels);

"(C) From the revenue collected from duties imposed under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862)—

"(i) not more than three percent relating to imports of steel and steel derivatives; and

"(ii) not more than one half of one percent each relating to imports of aluminum, aluminum derivatives, copper, and intensive copper derivative products;

"(D) The revenue collected from duties imposed under section 60502 of title 46, United States Code (relating to discriminating duty on goods imported in foreign vessels or from contiguous countries);

"(E) Any penalties paid with respect to a vessel pursuant to any of the following sections of title 46, United States Code—

"(i) section 2107;
"(ii) section 2302;
"(iii) section 3318;
"(iv) section 3718;
"(v) section 4106;
"(vi) section 5116;
"(vii) section 11303;
"(viii) section 11501;
"(ix) section 12151;
"(x) section 12507;
"(xi) section 14701;
"(xii) section 30707 (with respect to the portion of the fine that goes to the United States Government under subsection (c) of such section);
"(xiii) section 31309;
"(xiv) section 31330;
"(xv) section 41107;
"(xvi) section 41108;
"(xvii) section 42108;
"(xviii) section 44104;
"(xix) section 70036;
"(xx) section 70052;
"(xxi) section 70119;
"(xxii) section 70506; and
"(xxiii) section 80509; and

"(F) Any revenue generated in connection with the seizure and forfeiture of a maritime vessel under—

"(i) section 3 of the Act of August 5, 1935 (49 Stat. 518, chapter 438; 19 U.S.C. 1703);

"(ii) section 70052 of title 46, United States Code; and

"(iii) section 70507 of title 46, United States Code.

"(2) Initial Transfer to Maritime Security Trust Fund.—Out of any funds in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Maritime Security Trust Fund $1,000,000,000, without fiscal year limitation, to make expenditures referred to in subsection (b).

"(d) Limitations.—

"(1) Annual Limitation of Obligations.—Not more than $2,000,000,000 for each of fiscal years 2027 through 2037 shall be available for obligation out of the Maritime Security Trust Fund.

"(2) Limitation on Trust Fund Balance.—The total amount of receipts deposited into the Maritime Security Trust Fund between fiscal year 2027 and fiscal year 2037 shall not exceed $20,000,000,000, and any amount in excess of $20,000,000,000 shall be directed to the Treasury General Fund.".

(b) Clerical Amendment.—The table of chapters for chapter 98, subtitle I of title 26, United States Code, is amended by inserting after the item relating to section 9511 the following:

"9512. Maritime Security Trust Fund……9512.".

(c) Appropriations from the Maritime Security Trust Fund.—Chapter 503 of part A of subtitle V of title 46, United States Code, is amended by inserting after Section 50309 the following new section:

"Sec. 50310. Maritime Security Trust Fund Authorizations.

"(a) Authorization of Appropriations.—The following amounts for fiscal year 2027 are appropriated out of the Maritime Security Trust Fund established under section 9512 of the Internal Revenue Code of 1986 (26 U.S.C. 9512):

"(1) United States Center for Maritime Innovation.—For the United States Center for Maritime Innovation authorized under section 50307 of title 46, United States Code, $25 million.

"(2) United States Marine Highways.—For the United States Marine Highway program authorized under section 55601 of title 46, United States Code, $50 million.

"(3) Centers of Excellence Grants.—For Centers of Excellence for Domestic Maritime Workforce Training and Education grants authorized under section 51706 of title 46, United States Code, $30 million.

"(4) National Defense Reserve Fleet Support Craft Replacement.—For replacement support craft for the National Defense Reserve Fleet authorized under section 57100 of title 46, United States Code, $134 million.

"(5) United States Merchant Marine Academy.—For United States Merchant Marine Academy capital improvements, $430 million.

"(6) Training Ship Tuition and Fees.—For the State Maritime Academy Reimbursement for Training Ship Cadet Tuition and Fees Program, $26 million.

"(7) Maritime Service Employment Reimbursements.—For the Maritime Service Employment Reimbursement Program, $15 million.

"(8) Civilian Education and Development Payments.—For the Civilian Education and Development Payments Program, $2 million.

"(9) Commercial Shipbuilding Infrastructure Development.—For the Commercial Shipbuilding Infrastructure Development Program, $250 million.

"(10) Port Infrastructure Development Program.—For the Port Infrastructure Development Program authorized under section 54301 of title 46, United States Code, $450 million.

"(b) Availability of Amounts.—Amounts made available under subsection (a) shall remain available until expended.".

(d) Clerical Amendment.—The table of chapters for chapter 503, subtitle V of title 46, United States Code, is amended by inserting after the item relating to section 50309 the following:

"50310. Maritime Security Trust Fund
Authorizations……50310.".

Analysis:

This proposal would establish a Maritime Security Trust Fund (MSTF) to provide a dedicated funding source, independent from annual appropriations, for programs and activities that support the maritime industrial base and the United States merchant marine. The MSTF would capture existing revenues from maritime-related taxes, duties, fees, and penalties, and reserve it for programs included in the Maritime Action Plan. MSTF funds would be used to support a variety of MARAD and non-MARAD programs, including infrastructure investments, initiatives to expand the size of the U.S.-flag fleet, increasing the competitiveness of the domestic shipbuilding industry, and developing the maritime workforce and industrial base.

This proposal authorizes an initial transfer of $1 billion to the MSTF directly from the Treasury. No future general fund transfers would be needed. The total amount of captured revenues transferred to the MSTF would be limited to $20 billion between FY27 and FY37. Not more than $2 billion for each of fiscal years 2027 through 2037 could be appropriated from the MSTF for MARAD programs and activities authorized under subtitle V. MSTF spending will be mandatory rather than discretionary.

This proposal would increase mandatory outlays, and the estimated effect on the deficit is:

Fiscal Years
(dollars in millions)

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Mandatory Outlays	$0	$425	$91	$210	$210	$268	$103	$105	$0	$0	$0	$1,412
Net Deficit Impact	$0	$425	$91	$210	$210	$268	$103	$105	$0	$0	$0	$1,412

Section-by-Section Summary:

Subsection (a):

- Establishes the MSTF in a new section 9512 in title 26 of the United States Code. Section 9512 would do the following:
    - *Subsection (a):*
        - Establishes the MTSF as an account in the Treasury Department and describes the purposes for which amounts derived from the Maritime Security Trust Fund may be used.
    - *Subsection (b):*
        - Establishes what programs and activities can be funded with MSTF funds.
    - *Subsection (c):*
        - Establishes what revenues from tonnage taxes, tax receipts, duties, fees, and penalties can be transferred into the MTSF.
        - Provides an initial transfer of seed funding from the Treasury for the MSTF to commence operations until the trust fund is self-sustaining.
    - *Subsection (d):*
        - Limits to $2 billion the annual amount of funds that are available for appropriations out of the MSTF.
        - Limits the maximum amount of funds that can be transferred into the MSTF to $20 billion.

Subsection (b):

- Makes a clerical amendment to address the addition of the new 26 U.S.C. § 9512.

Subsection (c):

- This subsection authorizes appropriations from the MSTF in a new section 50310 in Title 46, U.S.C. Section 50310 would appropriate $2 billion in each of fiscal years 2027 through 2037 out of the MSTF for MARAD programs authorized under 46 U.S.C. subtitle V.
- Details on expenditures from the MSTF will be decided by OMB.

SEC. ___. MARITIME INDUSTRY TAX INCENTIVES.

(a) In General.—Part C of subtitle V of title 46, United States Code, is amended by inserting after chapter 535 the following new chapter:

"Chapter 536—Capital Construction Fund for Shipyards

"Sec. 53601. Definitions.

"(a) In this chapter:

"(1) Agreement shipyard.—The term "agreement shipyard" means—

"(A) an eligible shipyard or a qualified shipyard that is subject to an agreement under this chapter; and

"(B) equipment and structures that are part of the complement of a shipyard described in subparagraph (A) if provided for in the agreement.

"(2) Eligible shipyard.—The term "eligible shipyard" means a commercial general shipyard facility in the United States.

"(3) General shipyard facility.—The term "general shipyard facility" means—

"(A) for operations on land—

"(i) a structure or appurtenance thereto designed for the construction, reconstruction, repair, rehabilitation, or refurbishment of a vessel, including a graving dock, building way, ship lift, wharf, or pier crane;

"(ii) the land necessary for the structure or appurtenance; and

"(iii) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (i); and

"(B) for operations not on land, a vessel, floating drydock, or barge built in the United States and used for, equipped to be used for, or of a type normally used for, performing a function referred to in subparagraph (A)(i);

"(4) Qualified shipyard.—The term "qualified shipyard" means a private general shipyard facility in the United States;

"(5) Secretary.—The term "Secretary" means the Secretary of Transportation.

"Sec. 53602. Regulations.

"The Secretary shall prescribe regulations to carry out this chapter.

"Sec. 53603. Establishing a Capital Construction Fund for Shipyards.

"(a) In General.—An owner or lessee of an eligible shipyard may make an agreement with the Secretary under this chapter to establish a capital construction fund for the shipyard.

"(b) Allowable Purpose.—The purpose of the agreement shall be to further the purpose of this chapter, which is to provide expansion and modernization of shipyards in the United States for support of the development and expansion of commercial shipbuilding of the United States, thereby making United States shipyards, industrial base, and supply chains more competitive and secure to meet United States economic and national security needs.

"Sec. 53604. Establishing a Maritime Training Reinvestment Account.

"(a) Definitions.—For purposes of this chapter—

"(1) Qualified maritime training activities.—The term "qualified maritime training activities" means maritime workforce training and credentialing activities conducted in the United States, including operation of training facilities approved by the Secretary.

"(2) Qualified maritime training reinvestment amounts.—The term "qualified maritime training reinvestment amounts" means amounts derived from qualified maritime training activities.

"(3) Qualified maritime training reinvestment expenditures—The term "qualified maritime training reinvestment expenditures" means, as determined by the Secretary, acquiring, constructing, expanding, or modernizing maritime workforce training facilities, simulators, testing equipment, assessment facilities, and other training infrastructure located in the United States.

"(4) Qualified maritime training person.—The term "qualified maritime training person" means any person that the Secretary determines is engaged in whole or in substantial part, in one or more qualified maritime training activities.

"(b) In General.—A qualified maritime training person may make an agreement with the Secretary under this chapter to establish a maritime training reinvestment account.

"(c) Allowable purpose.—The purpose of that agreement shall be to ensure the availability of well-trained American shipbuilders and seafarers by furthering the amount, quality, and affordability of American maritime training.

"(d) Deposits and withdrawals.—

"(1) Required Deposits.—The agreement must provide for the deposit in the account of the amounts agreed to be appropriate to provide for qualified maritime training reinvestment expenditures.

"(2) Applicable Requirements.—Deposits into, and withdrawals from, the account are subject to the requirements included in the agreement, consistent with regulations prescribed by the Secretary. The agreements to which a person is subject may not require the person to deposit in one or more accounts with respect to a taxable year more than the training deposit ceiling for that year as determined under subsection (e).

"(3) Timing of Deposits.—A deposit into the account with respect to a taxable year may be made until the due date (including extensions) for the taxable year.

"(e) Deposit ceiling—The Training Deposit Ceiling for a taxable year is the sum of—

"(1) that portion of the taxable income of the qualified maritime training person for the taxable year (computed under chapter 1 of the Internal Revenue Code of 1986 and reported on that person's income tax return for the taxable year) that consists of qualified maritime training reinvestment amounts but that is computed without regard to the carryback of net operating loss or net capital loss;

"(2) the amount which is shown on the person's income tax return for the taxable year as allowable as a deduction under section 167 of the Internal Revenue Code of 1986 for the taxable year for depreciable assets that are used primarily in qualified maritime training activities;

"(3) any net proceeds (as defined in regulations) from the disposition of assets that the person owns and that are used primarily in qualified maritime training activities; and

"(4) the receipts from the investment or reinvestment of amounts held in the account.

"(f) Withdrawals.—In general, a withdrawal from an account is a qualified withdrawal if it is made under the terms of the agreement and is for—

"(1) A qualified maritime training reinvestment expenditure; or

"(2) The payment of principal on indebtedness incurred for one or more qualified maritime training reinvestment expenditures.

"(g)Treatment like a capital construction fund.—

"(1) General rule.—Except as explicitly provided in this chapter, a maritime training reinvestment account and deposits into, and withdrawals from, such an account are treated like a capital construction fund for shipyards and deposits into, and withdrawals from, such a capital construction fund, respectively.

"(2) Rate of consumption of the account.—The Secretary may alter the percentages and deadlines in section 53612(b)(1) to require more rapid utilization of the amounts in an account.

"Sec. 53605. Deposits and withdrawals.

"(a) Required Deposits.—An agreement to establish a capital construction fund for shipyards must provide for the deposit in the fund of the amounts agreed to be appropriate to provide for qualified withdrawals under section 53610 of this title.

"(b) Applicable Requirements.—Deposits into, and withdrawals from, the fund are subject to the requirements included in the agreement, consistent with regulations prescribed by the Secretary. The agreements to which a person is subject may not require the person to deposit in one or more funds with respect to a taxable year more than the Aggregate Deposit Ceiling for that year as determined under section 53606 of this title.

"(c) Timing of Deposits.—A deposit into the fund with respect to a taxable year may be made until the due date (including extensions) for the taxable year.

"Sec. 53606. Aggregate Deposit Ceiling.

"(a) The Aggregate Deposit Ceiling for a person is the sum of the owner deposit ceiling and the lessee deposit ceiling determined under subsections (b) and (c) of this section. Taxable income for purposes of subsections (b) and (c) is determined without regard to the deduction for deposits under section 1360 of the Internal Revenue Code of 1986. No amount may be taken into account more than once for purposes of those subsections.

"(b) Deposit Ceiling for a shipyard owner.—For a shipyard owner, the Owner Deposit Ceiling for a taxable year is the sum of—

"(1) that portion of the taxable income of the owner for the taxable year (computed under chapter 1 of the Internal Revenue Code of 1986 and reported on the owner's income tax return for the taxable year) that is attributable to the operation of shipyards that are now agreement shipyards of the United States but that is computed without regard to the carryback of net operating loss or net capital loss;

"(2) the amount which is shown on the owner's income tax return for the taxable year as allowable as a deduction under section 167 of the Internal Revenue Code of 1986 for the taxable year for such agreement shipyards;

"(3) any net proceeds (as defined in regulations) from the disposition of such agreement shipyards or from insurance or indemnity attributable to agreement shipyards, but only to the extent that the transaction is not taken into account for the purposes of paragraph (1) in any taxable year; and

"(4) the receipts from the investment or reinvestment of amounts held in the fund.

"(c) Deposit Ceiling for a shipyard lessee.—For a shipyard lessee, the Deposit Ceiling for a taxable year is the sum of—

"(1) that portion of the taxable income of the lessee for the taxable year (computed under chapter 1 of the Internal Revenue Code of 1986 and reported on the lessee's income tax return for the taxable year) that is attributable to the operation of leased shipyards that are now agreement shipyards of the United States but that is computed without regard to the carryback of net operating loss or net capital loss from such operation; and

"(2) the receipts from the investment or reinvestment of amounts held in the fund.

"Sec. 53607. Investment and fiduciary requirements.

"(a) In General.—Amounts in a capital construction fund must be kept in the depository specified in the agreement and will be subject to trustee and other fiduciary requirements prescribed by the Secretary. Except as provided in subsection (b), amounts in the fund must be invested only in interest-bearing securities approved by the Secretary.

"(b) Stock Investments.—

"(1) In general.—With the approval of the Secretary, an agreed percentage (but not more than 60 percent) of the assets of the fund may be invested in mutual funds or stocks or similar equity investments that—

"(A) are fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange or registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the Securities Act of 1933; and

"(B) would be acquired by a prudent investor seeking a reasonable income and the preservation of capital.

"(2) Preferred stock.—The preferred stock of a corporation is deemed to satisfy the requirements of this subsection, even though it may not be registered and listed because it is nonvoting stock, if the common stock of the corporation satisfies the requirements and the preferred stock otherwise would satisfy the requirements.

"(c) Maintaining Agreed Percentage.—If at any time the fair market value of the mutual funds or stocks or similar equity investments in the fund are more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in a way that tends to restore the fair market value of the stocks, mutual funds, or similar equity investments to not more than the agreed percentage.

"Sec. 53608. Nontaxation of deposits.

"For the tax treatment of deposits and amounts in the fund, see section 1360 of the Internal Revenue Code of 1986.

"Sec. 53609. Separate accounts within a fund.

"(a) A capital construction fund for shipyards has three accounts:

"(1) The capital account.

"(2) The capital gain account.

"(3) The ordinary income account.

"(b) Capital Account.—The capital account shall consist of—

"(1) amounts referred to in section 53606(b)(2) of this title;

"(2) amounts referred to in section 53606(b)(3) of this title;

"(3) the product of the amount of any dividend received by the fund times the percentage which section 243(a)(1) of the Internal Revenue Code of 1986 would make deductible by the person maintaining the fund were it not for section 1360(b)(2)(C) of such code; and

"(4) interest income exempt from taxation under section 103 of the Internal Revenue code of 1986.

"(c) Capital Gain Account.—The capital gain account shall consist of—

"(1) amounts representing capital gains on assets held for more than the long-term holding period under section 1222 of the Internal Revenue Code of 1986 and referred to in section 53606(b)(3) or (4) of this title; minus

"(2) amounts representing capital losses on assets held in the fund for more than the long-term holding period under section 1222 of the Internal Revenue Code of 1986.

"(d) Ordinary Income Account.—The ordinary income account shall consist of—

"(1) amounts referred to in section 53606(b)(1) of this title;

"(2)(A) amounts representing capital gains on assets held for not more than the long-term holding period under section 1222 of the Internal Revenue Code of 1986 and referred to in section 53606(b)(3) or (4) of this title; minus

"(B) amounts representing capital losses on assets held in the fund for not more than the long-term holding period under section 1222 of the Internal Revenue Code of 1986;

"(3) interest (except tax-exempt interest referred to in subsection (b)(4)) and other ordinary income (except any dividend referred to in paragraph (5)) received on assets held in the fund;

"(4) ordinary income from a transaction described in section 53606(b)(3) of this title; and

"(5) that portion of any dividend referred to in subsection (b)(3) not taken into account under subsection (b)(3).

"(e) See section 1360(c) of the Internal Revenue Code of 1986 for when certain capital losses are allowed.

"Sec. 53610. Withdrawals.

"(a) In general.—A withdrawal from a capital construction fund for shipyards is a qualified withdrawal if it is made under the terms of the agreement and is for—

"(1) the acquisition, construction, expansion, modification, repair, rehabilitation, refurbishment, modernization, or reconstruction of a qualified shipyard or equipment and structures that are part of the complement of a qualified shipyard;

"(2) the acquisition, construction, expansion, modification, reconstruction, repair, rehabilitation, refurbishment, or modernization of drydocks, graving docks, building ways,

ship lifts, wharves, piers, cranes, machine tools, production equipment, testing equipment, digital shipyard systems, related cybersecurity systems, design and engineering systems, and other equipment, systems, tooling, or infrastructure used predominantly in the United States for vessel construction, reconstruction, conversion, repair, rehabilitation, refurbishment, or modernization;

"(3) the acquisition, construction, expansion, modification, reconstruction, repair, rehabilitation, refurbishment, or modernization of a qualified maritime industrial base supplier facility, to the extent provided in the agreement;

"(4) the acquisition, construction, conversion, repair, rehabilitation, refurbishment, modernization, or reconstruction of a qualifying United States vessel, vessel, floating drydock, barge, or other floating facility built in the United States and used predominantly to support essential maritime capability, shipyard operations, or related maritime industrial base activities;

"(5) the acquisition, construction, expansion, modification, reconstruction, or modernization of maritime workforce training facilities, simulators, testing equipment, assessment facilities, or other training infrastructure located in the United States and used predominantly to train workers for shipbuilding, ship repair, vessel construction, vessel conversion, vessel maintenance, or related maritime industrial base occupations; or

"(6) the payment of principal on indebtedness incurred for a purpose described in paragraphs (1) through (5).

"(b) Order of Qualified Withdrawals.—A qualified withdrawal from a capital construction fund shall be treated as made—

"(1) first from the capital account;

"(2) second from the capital gain account; and

"(3) third from the ordinary income account.

"(c) Treatment as Nonqualified Withdrawal.—

"(1) Except as provided in paragraph (2) and in section 53614 of this title, a withdrawal from a fund that is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

"(2) If there is a qualified withdrawal from a fund to pay indebtedness and section 1360 of the Internal Revenue Code of 1986, after basis reduction, treats any portion of the withdrawal as a nonqualified withdrawal for tax purposes, then such portion is also a nonqualified withdrawal for purposes of this chapter.

"(3) Under the regulations, if the Secretary determines that a substantial obligation under an agreement is not being fulfilled, then, after notice to, and opportunity for a response from,

the person maintaining the fund, the Secretary may treat any amount in the fund as an amount withdrawn from the fund in a nonqualified withdrawal.

"(d) Order of Nonqualified Withdrawals.—A nonqualified withdrawal shall be treated as made—

"(1) first from the ordinary income account;

"(2) second from the capital gain account; and

"(3) third from the capital account.

"(e) Use of domestic materials. – In making a qualified withdrawal under subsection (a), an agreement shipyard shall, to the maximum extent practicable, use iron, steel, and manufactured goods, components, systems, and materials made in the United States.

"(f) Qualified maritime industrial base supplier facility.—For purposes of this section, the term 'qualified maritime industrial base supplier facility' means a facility located in the United States that produces components, systems, equipment, tooling, machinery, materials, or other inputs used predominantly in the construction, reconstruction, conversion, repair, rehabilitation, refurbishment, or modernization of vessels or in the operation, expansion, repair, rehabilitation, refurbishment, or modernization of qualified shipyards, as determined by the Secretary.

"Sec. 53611. Tax treatment of qualified withdrawals and basis of property.

"For taxation of qualified withdrawals and for the basis of property, see section 1360(d) of the Internal Revenue Code of 1986.

"Sec. 53612. Tax treatment of nonqualified withdrawals—

"(a) Location of tax provisions.—For taxation of nonqualified withdrawals see section 1360(e) of the Internal Revenue Code of 1986.

"(b) Nonqualified Withdrawals.—

"(1) In General.—The following applicable percentage of any amount that remains in a capital construction fund at the close of the following specified taxable year following the taxable year for which the amount was deposited shall be treated as a nonqualified withdrawal:

If the amount remains in the fund at the close of the—	The applicable percentage is—
26th taxable year	20 percent
27th taxable year	40 percent
28th taxable year	60 percent

29th taxable year	80 percent
30th taxable year	100 percent.

"(2) Earnings.—The earnings of a capital construction fund for any taxable year (except net gains) shall be treated under this subsection as an amount deposited for the taxable year.

"(3) Contract for qualified withdrawal.—Under paragraph (1), an amount shall not be treated as remaining in a capital construction fund at the close of a taxable year to the extent there is a binding contract at the close of the taxable year for a qualified withdrawal of the amount for an identified item for which the withdrawal may be made.

"(4) Excess earnings**.**—If the Secretary determines that the balance in a capital construction fund exceeds the amount appropriate to meet the shipyard construction program objectives of the person that established the fund, the amount of the excess shall be treated as a nonqualified withdrawal under paragraph (1) unless the person develops appropriate program objectives within 3 years to dissipate the excess.

"Sec. 53613. FIFO and LIFO withdrawals

"(a) FIFO.—Except as provided in subsection (b), an amount withdrawn from an account under this chapter shall be treated as withdrawn on a first-in-first-out basis.

"(b) LIFO.—An amount withdrawn from an account under this chapter shall be treated as withdrawn on a last-in-first-out basis if it is—

"(1) a nonqualified withdrawal for research, development, and design expenses incident to new and advanced shipyard design, machinery, and equipment; or

"(2) an amount treated as a nonqualified withdrawal under section 53610(c)(2) of this title.

"Sec. 53614. Corporate reorganizations and partnership changes.

"Under regulations—

"(1) a transfer of a capital construction fund from one person to another person may be treated as other than a nonqualified withdrawal if the transfer occurs in—

"(A) a transaction described in section 381 of the Internal Revenue Code of 1986, or

"(B) an analogous successor transaction; and

"(2) a similar rule shall be applied to a continuation of a partnership (within the meaning of 708 of such Code).

“Sec. 53615. Recordkeeping and reports of fundholder.

“A person maintaining a capital construction fund for shipyards under this chapter must keep records and submit to the Secretary timely, complete, and accurate reports at such times, and in such form, and containing such information, as deemed necessary to ascertain whether the person has complied or is complying with this part.

“Sec. 53616. Termination of agreement after change in regulations.

“If, after an agreement has been made under this chapter, a change is made either in the applicable internal revenue regulations or in the regulations prescribed by the Secretary under this chapter that could have a substantial effect on the rights or duties of a person maintaining a fund under this chapter, that person may terminate the agreement.

“Sec. 53617. Reports.

“(a) In General.—Within an agreed period of time after the close of each calendar year, the Secretary will provide the Secretary of the Treasury a written report on the capital construction funds for shipyards for the previous calendar year.

“(b) Contents.—The report shall state the name and taxpayer identification number of each person—

“(1) establishing a capital construction fund for shipyards during the calendar year;

“(2) maintaining a capital construction fund for shipyards on the last day of the calendar year;

“(3) terminating a capital construction fund for shipyards during the calendar year;

“(4) making a deposit to or withdrawal from a capital construction fund for shipyards during the calendar year, and the amount of the deposit or withdrawal; or

“(5) having been determined during the calendar year to have failed to fulfill a substantial obligation under a capital construction fund for shipyards agreement to which the person is a party.”.

(b) Clerical Amendment.—The table of chapters for subtitle V of title 46, United States Code, is amended by inserting after the item relating to chapter 535 the following:

“536. Capital Construction Fund for Shipyards…….….53601.”.

(c) Amendments to the Internal Revenue Code of 1986.—The Internal Revenue Code of 1986 is amended by deleting section 7518 and by adding a new section 1360 to read as follows—

“§ 1360. Tax incentives relating to merchant marine capital construction funds and maritime training reinvestment accounts.

“(a) Scope

“This section applies to a person if the person and the Secretary of Transportation are parties to one or more capital construction fund agreements or one or more Maritime Training Reinvestment Deferral Accounts under chapter 535 or chapter 536 of title 46 of the United States Code. Under this section a Maritime Training Reinvestment Account is treated like a capital construction fund.

“(b) Nontaxability of deposits

“If, pursuant to such an agreement, the taxpayer deposits an amount into a capital construction fund and the deposit of such amount is timely for purposes of the applicable Transportation regulations, then—

“(1) Gross income for the taxable year shall be reduced by an amount equal to the amount of such deposit for the taxable year, even if such amount is deposited after the end of the taxable year;

“(2) Gross income does not include—

“(A) the net proceeds (as defined in regulations prescribed by the Secretary) from the disposition of an agreement vessel, or of an agreement shipyard, with respect to such fund, provided that such net proceeds are deposited into such fund;

“(B) the net proceeds (as defined in regulations prescribed by the Secretary) from insurance or indemnity attributable to such vessel or shipyard, provided that such net proceeds are deposited into such fund; or

“(C) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund;

“(3) If the taxpayer is a corporation, the taxpayer’s earnings and profits (within the meaning of section 316) shall be determined without regard to this section; and

“(4) Amounts in such capital construction funds are not taken into account for purposes of part I of subchapter G.

“(c) When losses are allowed.

“Except on termination of a fund, capital losses referred to in 46 USC sections 53508(c), 53508(d)(2), 53608(c), or 53608(d)(2) shall be allowed only as an offset to gains referred to in sections 53508(c), 53508(d)(2), 53608(c), or 53608(d)(2), respectively.

“(d) Tax treatment of qualified withdrawals

“(1) Adjustment to basis where withdrawal is from ordinary income account

“(A) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the ordinary income account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

"(B) If any portion of a qualified withdrawal for a shipyard, equipment, or structures is made out of the ordinary income account, the basis of the shipyard, equipment, or structures shall be reduced by an amount equal to such portion.

"(2) Adjustment to basis where withdrawal from capital gain account

"(A) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the capital gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

"(B) If any portion of a qualified withdrawal for a shipyard, equipment, or structures is made out of the capital gain account, the basis of the shipyard, equipment, or structures shall be reduced by an amount equal to such portion.

"(3) Adjustment to basis where withdrawals pay principal on debt

"(A) If any portion of a qualified withdrawal to pay the principal on any indebtedness is made out of the ordinary income account or the capital gain account of a capital construction fund for vessels, then an amount equal to the aggregate reduction which would be required by paragraphs (1)(A) and (2)(A) if the withdrawal were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated for tax purposes as a nonqualified withdrawal.

"(B) If any portion of a qualified withdrawal to pay the principal on any indebtedness is made out of the ordinary income account or the capital gain account of a capital construction fund for shipyards, then an amount equal to the aggregate reduction that would be required by paragraphs (1)(B) and (2)(B) if the withdrawal were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in regulations, to reduce the basis of shipyards, equipment, or structures owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated for tax purposes as a nonqualified withdrawal.

"(4) Ordinary income recapture of basis reduction

"If any property the basis of which was reduced under paragraph (1), (2), or (3) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (e)(1)(A) which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

"(e) Tax treatment of nonqualified withdrawals

"(1) Operating rules

"For purposes of this title—

"(A) if section 53511 or 53612 of title 46, United States Code, treats any amount as a nonqualified withdrawal out of the ordinary income account, then such amount shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made;

"(B) if section 53511 or 53612 of title 46, United States Code, treats any amount as a nonqualified withdrawal out of the capital gain account, then such amount shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than the long-term holding period under section 1222, and

"(C) for the period on or before the last date prescribed for payment of tax for the taxable year in which this withdrawal is made—

"(i) no interest shall be payable under section 6601 and no addition to the tax shall be payable under section 6651,

"(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (2)) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

"(iii) no interest shall be payable on amounts treated as withdrawn on a last-in-first-out basis under sections 53612 or 53513 of title 46, United States Code.

"(2) Interest rate

"For purposes of paragraph (1)(C)(ii), the applicable rate of interest shall be determined by the Secretary, after consultation with the Secretary of Transportation. Under regulations, the rate shall be such that its relation to 8 percent is comparable to the relation between—

"(A) the money rates and investment yields for the calendar year immediately before the beginning of the taxable year; and

"(B) the money rates and investment yields for the calendar year of enactment of this section.

"(3) Nonqualified withdrawals taxed at highest marginal rate

"(A) In general

"In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under section 53510(d)-(e) or section 53612(c)(2)-(3) of 46 USC), the tax imposed by chapter 1 shall be determined by—

"(i) excluding such withdrawal from gross income, and

"(ii) increasing the tax imposed by chapter 1 by the product of the amount of such withdrawal and the highest rate of tax specified in section 1 (section 11 in the case of a corporation).

"With respect to the portion of any nonqualified withdrawal made out of the capital gain account during a taxable year to which section 1(h) applies, the rate of tax taken into account under the preceding sentence shall not exceed the highest rate of tax specified in section 1(h) (or section 11(b) in the case of a corporation).

“(B) Tax benefit rule

“If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under chapter 1 for any taxable year preceding the taxable year in which such withdrawal occurs—

“(i) such portion shall not be taken into account under subparagraph (A), and

“(ii) an amount equal to such portion shall be treated as allowed as a deduction under section 172 for the taxable year in which such withdrawal occurs.

“(C) Coordination with deduction for net operating losses

“Any nonqualified withdrawal excluded from gross income under subparagraph (A) shall be excluded in determining taxable income under section 172(b)(2).

“**(f) Definitions**

“For purposes of this section, any term defined in chapter 535 or chapter 536 of title 46, United States Code, which is also used in this section (not including the definition of “Secretary”) shall have the meaning given such term by such chapter as in effect on the date of the enactment of this section.

“(g) Regulations

“The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section and the purposes of expanding the U.S.-flag commercial fleet, revitalizing the domestic shipbuilding industrial base, making the relevant supply chains more competitive, and strengthening national security. These regulations and guidance shall coordinate with the application of other provisions of subtitle A to prevent omission or duplication of any favorable or unfavorable item.”.

Analysis—Transportation provisions:

This proposal would create a new Capital Construction Fund for Shipyards (CCFS), modeled on the existing Capital Construction Fund (CCF) program, which is only available for vessel construction. The intention of the program is to encourage additional capital investment in U.S. shipyards by deferring tax on income generated by a shipyard that is deposited in a CCFS account if that income is reinvested in that shipyard. As of July 31, 2025, the current CCF for vessels program includes 129 fund holders with a total of $2.59 billion in deposits. CCF fundholders are able to take advantage of other MARAD programs like Title XI and the Small Shipyard Grant Program to further support construction projects, compounding the benefits to the industry. Like CCF for vessels, the CCFS program would allow for income tax deferred investment in shipyard improvements such as infrastructure and equipment, as well as payment of principal on debt for those improvements. If the program is authorized, it will provide another incentive for capital investment in domestic shipyards.

The statutes governing the existing CCF program are repeated in the Internal Revenue Code and, similarly, tax provisions appear unnecessarily in the Transportation statute. The current

proposed legislation avoids these issues by locating the provisions more appropriately, stating each rule only once, where it belongs, and providing clarifying cross references where helpful.

Transportation Section-by-Section Summary:

Section 53601:

- Defines key terms used in proposal to assist in understanding shipyard eligibility.

Section 53602:

- Explains that the Secretary of Transportation shall prescribe regulations to further the purpose of the chapter.

Section 53603:

- Establishes who is eligible to enter into a CCF agreement and purposes that are permitted to be undertaken under a CCF agreement. These provisions enhance and support national security through workforce development and by mandating a preference for domestically sourced materials in shipyard projects.

Section: 53604:

- Establishes a maritime training reinvestment account program through which individuals engaged in maritime-related careers could make deposits in CCF-like tax deferred accounts that they could then use for qualifying training purposes.

Section 53605:

- Explains that the deposit requirements applicable to a particular capital construction fund will be established in the agreement governing the fund and establishes limits to the amount a fundholder may be required to deposit under an agreement.

Section 53606:

- Defines the maximum amounts a fundholder is permitted to deposit into a capital construction fund with respect to a taxable year.

Section 53607:

- Requires that a capital construction fund be kept in a depository as defined in the agreement and defines how CCF funds may be invested in stocks, mutual funds, or similar equity investments.

Section 53608:

- Cross-references the tax treatment for deposits in a CCF.

Section 53609:

- Establishes the three accounts that make up a CCF and the purpose of each account.

Section 53610:

- Establishes that withdrawals that are subject to an agreement and are used for shipyard improvements such as infrastructure and equipment, or the payment of principal on debt for those improvements, are qualified withdrawals. (The accompanying tax legislation would provide tax benefits for such withdrawals).
- These provisions enhance and support national security through workforce development and by mandating a preference for domestically sourced materials in shipyard projects.

Section 53611:

- Cross-references to the tax treatment of qualified withdrawals from a CCF.

Section 53612:

- Cross-references to the tax treatment of nonqualified withdrawals from a CCF.

Section 53613:

- Defines when withdrawals are to be treated on a "first-in-first-out" or a "last-in-first-out" basis.

Section 53614:

- Defines when a CCF account may be transferred to another person or in a continuation of a partnership and not be treated as a nonqualified withdrawal.

Section 53615:

- Outlines the recordkeeping requirements of the fundholder under this section.

Section 53616:

- Explains when a fundholder may terminate a CCF agreement after a change in regulation.

Section 53617:

- Outlines MARAD's reporting requirements to the Secretary of the Treasury and the required content of those reports.

Analysis—Revenue provisions:

Section 1360 of the Internal Revenue Code of 1986:
Capital Construction Funds require both statutory provisions that govern their operation and complementary provisions to provide special tax treatment. Historically, the two types of provisions were duplicated in both tax and non-tax areas of Federal law. The current legislative proposal would address this repetition and the uncertainty that redundancy can create. This document attempts to separate the operational and revenue provisions, leaving the combination a more effective whole.

The text above revises the relevant section of the Internal Revenue Code and moves the result to a more appropriate location in the tax Code.

This proposal would decrease revenues, and the estimated effect on the deficit is:

Fiscal Years
(dollars in millions)

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Revenues	$0	$-178	$-125	$-70	$-72	$-78	$-84	$-90	$-93	$-96	$-99	$-985
Net Deficit Impact	$0	$178	$125	$70	$72	$78	$84	$90	$93	$96	$99	$985

SEC. ___. COMMERCIAL SHIPBUILDING INFRASTRUCTURE PROGRAM.

Section 54101 of title 46, United States Code, is amended to read as follows:

"Sec. 54101. Commercial Shipbuilding Infrastructure Program

"(a) Establishment.—

"(1) In general.—Subject to the availability of appropriations, the Maritime Administrator shall carry out a program to provide financial assistance to shipyards for the purposes described in subsection (c).

"(2) Goal.—The goal of the program shall be to fund eligible projects that will foster technical skills and operational productivity relating to shipbuilding, ship repair, and associated industries.

"(b) Grant Authority.—

"(1) In General.—In carrying out the program, the Maritime Administrator shall make grants to eligible applicants, on a competitive basis, in accordance with this section.

"(2) Administrative costs.—Not more than 2 percent of amounts made available to carry out the program authorized by this section may be used for necessary costs of administration of the program authorized by this section.

"(3) Availability.—

"(A) In general.—Amounts appropriated to make grants for shipyards under this section shall remain available until expended.

"(B) Reuse of unexpended grant funds.—Amounts awarded as a grant under this section that are not expended by the grantee during the 5-year period following the date of the award or that are returned shall remain available to the Maritime Administrator for use for grants under this section in a subsequent fiscal year.

"(4) Awards.—In providing assistance under this section, the Maritime Administrator shall not select an applicant for more than one award for the same fiscal year.

"(5) Amount.—For grants other than those awarded under subsection (i), the minimum award size shall be $30,000,000.

"(6) Prohibited uses.—A maritime training center that has received funds awarded under section 51706 of title 46, United States Code, shall not be eligible for grants under this section for training purposes in the same fiscal year.

"(c) Eligible Projects.—In general.—Assistance provided under this section may be used to—

"(1) make capital and related improvements to shipyards owned or operated by eligible applicants; and

"(2) provide training for workers in shipbuilding, ship repair, and associated industries.

"(d) Eligible Applicants.—To be eligible for financial assistance pursuant to this section, an applicant must—

"(1) have authority as owner or operator of the shipyard facility to carry out the proposed project as required by subsection (j); and

"(2) be the owner or operator of a shipyard facility in a single geographic location in the United States that—

"(A) constructs, repairs, or reconfigures vessels 40 feet in length or more for commercial or government use; or

"(B) constructs, repairs, or reconfigures vessels 100 feet in length or more for non-commercial vessels.

"(e) Buy America.

"(1) In general.—Subject to paragraph (2), the Maritime Administrator shall not obligate funds under this section, unless each product and material purchased with those funds (including products and materials purchased by a grantee), and including any commercially available off-the-shelf item, is—

"(A) an unmanufactured article, material, or supply that has been mined or produced in the United States; or

"(B) a manufactured article, material, or supply that has been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States.

"(2) Exceptions.—

"(A) In general.—Notwithstanding paragraph (1), the requirements of that paragraph shall not apply with respect to a particular product or material if the Administrator determines—

"(i) that the application of those requirements would be inconsistent with the public interest;

"(ii) that such product or material is not available in the United States in sufficient and reasonably available quantities, of a satisfactory quality, or on a timely basis; or

"(iii) that inclusion of a domestic product or material will increase the cost of that product or material by more than 25 percent, with respect to a certain contract between a grantee and that grantee's supplier.

"(B) Federal Register.—A determination made by the Administrator under this subparagraph shall be published in the Federal Register.

"(3) Definitions.—ln this subsection—

"(A) The term "commercially available off-the-shelf item" means—

"(i) any item of supply (including construction material) that is—

"(I) a commercial product, as defined by section 2.101 of title 48, Code of Federal Regulations (as in effect on the date of the enactment of this Act); and

"(II) sold in substantial quantities in the commercial marketplace; and

"(ii) does not include bulk cargo, as defined in section 40102(4) of this title, such as agricultural products and petroleum products.

"(B) The term "product or material" means an article, material, or supply brought to the site by the recipient for incorporation into the building, work, or project. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site.

"(C) The term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

"(f) Solicitation and Application.—

"(1) Notice of funding opportunity.—Not later than 45 days after the date on which funds are made available to carry out the program, the Secretary shall publish a notice of funding opportunity for the funds.

"(2) Applications.—

"(A) To be eligible to receive a grant under this section, an applicant shall submit to the Maritime Administrator an application in such form and containing such information and assurances as the Maritime Administrator considers to be appropriate.

"(B) Such an application shall include, at minimum, a comprehensive description of—

"(i) the need for the project;

"(ii) the methodology for implementing the project; and

"(iii) any existing programs or arrangements that can be used to supplement or leverage assistance under the program.

"(3) Timing of applications.—To be eligible to receive assistance under this section, an applicant must submit an application by such date as the Maritime Administrator may establish.

"(g) Primary Selection Criteria.—In awarding grants under the program, the Maritime Administrator shall evaluate the extent to which a project fosters—

"(1) efficiency, competitive operations, quality ship construction, repair, and reconfiguration, and improves capacity at the shipyard (for capital improvement projects);

"(2) employee skills and enhanced productivity related to shipbuilding, ship repair, and associated industries (for maritime training program projects); and

"(3) improved capacity at the shipyard (for projects other than those under subsection (i)).

"(h) Additional Considerations.—In selecting projects to receive grants under the program, the Maritime Administrator shall give substantial weight to—

"(1) the extent to which the project improves safety;

"(2) the utilization of non-Federal contributions;

"(3) the utilization of nontraditional financing, innovative design and construction techniques, or innovative technologies;

"(4) the extent to which the project supports critical shipbuilding and ship repair infrastructure as determined by the Maritime Administrator; and

"(5) contributions to geographic diversity among grant recipients.

"(i) Assistance to Small Shipyards.—

"(1) Allocation of Funds.—The Maritime Administrator shall reserve not less than 25 percent of the amounts made available for grants under this section each fiscal year to make

grants to eligible applicants for eligible projects at shipyard facilities that have 1,200 production employees or fewer in one geographic location.

"(2) Limitations.—

"(A) Grants awarded under this subsection may not be used to construct buildings or other physical facilities or to acquire land.

"(B) No more than 25 percent of the funds available under this subsection may be awarded to any small shipyard in one geographic location that has more than 600 production employees.

"(3) Production Employees.—In this section, production employees include eligible applicant employees directly engaged in repair, construction, or reconstruction of vessels and does not include—

"(A) employees primarily engaged in administration, engineering, or support functions; or

"(B) contractors of any kind.

"(j) Conditions on Provision of Assistance.—The Maritime Administrator may not award a grant under this section unless the Maritime Administrator determines that—

"(1) sufficient funding is available to meet the matching requirements of subsection (l);

"(2) the project will be completed without unreasonable delay; and

"(3) the recipient has authority to carry out the proposed project.

"(k) Awards.—

"(1) Except as provided in subparagraph (2), not later than 270 days after the date on which amounts are made available to provide grants under the program for a fiscal year, the Maritime Administrator shall announce the selection of awards of eligible projects to receive grants in accordance with this section.

"(2) For projects selected under subsection (i), the Maritime Administrator shall announce the selection of awards of eligible projects not later than 150 days after the date on which amounts are made available to provide grants under the program for a fiscal year, in accordance with this section.

"(l) Federal Share.—The Federal share of the cost of an eligible project carried out using a grant provided under the program shall not exceed 75 percent.

"(m) Technical Assistance.—

"(1) In general.—On request of an eligible applicant that submitted an application for a project that is not selected to receive a grant under the program, the Maritime Administrator shall provide to the eligible applicant technical assistance and briefings relating to the project.

"(2) Treatment.—Technical assistance provided under this paragraph shall not be considered a guarantee of future selection of the applicable project under the program.

"(n) Audits and Examinations.—All grantees under this section shall maintain such records as the Maritime Administrator may require and make such records available for review and audit by the Maritime Administrator.".

"(o) Procedural safeguards.—The Maritime Administrator, in consultation with the Office of the Inspector General, shall issue guidelines to establish appropriate accounting, reporting, and review procedures to ensure that-

"(1) grant funds are used for the purposes for which they were made available;

"(2) grantees have properly accounted for all expenditures of grant funds; and

"(3) grant funds not used for such purposes and amounts not obligated or expended are returned."

Analysis:

Section 10 of Executive Order 14269, *Restoring America's Maritime Dominance*, requires DOT to submit a legislative proposal that establishes a financial incentive program with broad flexibility to incentivize private investment in the construction of commercial components, parts, and vessels; capital improvements to commercial vessel shipyards; capital improvements to commercial vessel repair facilities and drydocks through grants; and Federal Credit Reform Act-compliant loans and loan guarantees. The National Security Council recommended that MARAD focus on actions that can be taken within existing MARAD programs to better leverage more advanced manufacturing processes.

MARAD proposes the Commercial Shipbuilding Infrastructure Program (CSIP) to revise the existing Small Shipyards Grant (SSG) program authorization, 46 U.S.C. § 54101, to provide financial incentives to a greater number of shipyards to improve their ship building and reconstruction facilities. MARAD would open the CSIP to large and small shipyards, with a set aside for small shipyards, so that they can remain competitive. MARAD's intent in proposing the program is to increase the capacity and efficiency of U.S. shipyards, create and sustain high-paying jobs in the maritime sector, promote innovation and technological advancement in shipbuilding, and reduce reliance on foreign shipyards for critical vessel construction and repair.

The text of the CSIP proposal incorporates elements of the current SSG authorization and the Better Utilizing Investments to Leverage Development (BUILD) grant program authorization (49 U.S.C. § 6702).

Section-by-Section Summary:

This section-by-section analysis provides additional details regarding the specific changes this proposal would make to the current statute.

Subsections (a) and (b):

- Subsections (a) and (b) authorize establishment of the CSIP as a competitive grant program.
- Paragraph (b)(5) establishes a minimum award of $30M to applicants that do not meet the criteria of small shipyards set out in subsection (i). MARAD intends for this limitation to ensure that projects at small shipyards would continue to be competitive and receive funding in the event of appropriations of $50M or less. MARAD anticipates that projects at larger shipyards will be complex and likely cost more than $30M.

Subsections (c) and (d):

- These subsections describe the requirements for projects and applicants to be eligible to apply for and receive CSIP funding. These requirements are based on existing SSG provisions.

Subsection (e):

- This subsection describes Buy America requirements. The text is the same as in the existing SSG authorization.

Subsections (f), (g), and (h):

- These subsections establish solicitation, application, and selection requirements.
- Subsection (f) provides the minimum requirements for MARAD to publish a solicitation for applications and the timing and content of applications. These requirements are based on existing SSG authorization provisions and the most recent SSG Notice of Funding Opportunity.
- Subsections (g) and (h) provide the award selection criteria. All applicants will describe how their project supports both the primary criteria and additional considerations. Primary criteria are most important, but if the project supports one or more of the additional considerations, that project will be more competitive than an application that supports fewer additional considerations. This differentiation would be easiest to evaluate if there was a point and weighting system assigned to each criterion.

Subsection (i):

- This subsection establishes a set aside for small shipyards to ensure applicants and projects eligible for SSG program grants remain competitive. As is the case for SSGs, funds awarded to small shipyards may not be used to construct buildings or other

facilities or acquire land. Historically, recipients have used Small Shipyard Grants to purchase equipment and provide employee training.

Subsections (j)-(n):

- These subsections include administrative provisions from the SSG authorization.

Comparative Type:
(Italicized, bracketed language is to be deleted; bold, underlined language is to be added.)

§54101. Assistance for small shipyards

[(a) Establishment of Program.-Subject to the availability of appropriations, the Administrator of the Maritime Administration shall execute agreements with shipyards to provide assistance-

(1) in the form of grants, loans, and loan guarantees to small shipyards for capital improvements; and

(2) for maritime training programs to foster technical skills and operational productivity relating to shipbuilding, ship repair, and associated industries.

(b) Awards.-

(1) In general.-In providing assistance under the program, the Administrator shall consider projects that foster-

(A) efficiency, competitive operations, and quality ship construction, repair, and reconfiguration; and

(B) employee skills and enhanced productivity related to shipbuilding, ship repair, and associated industries.

(2) Timing of grant notice.-The Administrator shall post a Notice of Funding Opportunity regarding grants awarded under this section not more than 15 days after the date of enactment of the appropriations Act for the fiscal year concerned.

(3) Timing of grants.-The Administrator shall award grants under this section not later than 120 days after the date of the enactment of the appropriations Act for the fiscal year concerned.

(4) Reuse of unexpended grant funds.-Notwithstanding paragraph (3), amounts awarded as a grant under this section that are not expended by the grantee shall remain available to the Administrator for use for grants under this section.

(c) Use of Funds.-

(1) In general.-Assistance provided under this section may be used to-

(A) make capital and related improvements in small shipyards; and

(B) provide training for workers in shipbuilding, ship repair, and associated industries.

(2) Administrative costs.-Not more than 2 percent of amounts made available to carry out the program may be used for the necessary costs of grant administration.

(d) Prohibited Uses.-

(1) In general.-Grants awarded under this section may not be used to construct buildings or other physical facilities or to acquire land.

(2) Buy America.-

(A) In general.-Subject to subparagraph (B), no funds may be obligated by the Administrator of the Maritime Administration under this section, unless each product and material purchased with those funds (including products and materials purchased by a grantee), and including any commercially available off-the-shelf item, is-

(i) an unmanufactured article, material, or supply that has been mined or produced in the United States; or

(ii) a manufactured article, material, or supply that has been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States.

(B) Exceptions.-

(i) In general.-Notwithstanding subparagraph (A), the requirements of that subparagraph shall not apply with respect to a particular product or material if the Administrator determines-

(I) that the application of those requirements would be inconsistent with the public interest;

(II) that such product or material is not available in the United States in sufficient and reasonably available quantities, of a satisfactory quality, or on a timely basis; or

(III) that inclusion of a domestic product or material will increase the cost of that product or material by more than 25 percent, with respect to a certain contract between a grantee and that grantee's supplier.

(ii) Federal register.-A determination made by the Administrator under this subparagraph shall be published in the Federal Register.

(C) Definitions.-ln this paragraph:

(i) The term "commercially available off-the-shelf item" means-

(I) any item of supply (including construction material) that is-

(aa) a commercial item, as defined by section 2.101 of title 48, Code of Federal Regulations (as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020); and
(bb) sold in substantial quantities in the commercial marketplace; and

(II) does not include bulk cargo, as defined in section 40102(4) of this title, such as agricultural products and petroleum products.

(ii) The term "product or material" means an article, material, or supply brought to the site by the recipient for incorporation into the building, work, or project. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site.

(iii) The term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(e) Matching Requirements; Allocation.-

(1) Federal funding.-Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

(2) Allocation of funds.-

(A) In general.-The Administrator may not award more than 25 percent of the funds made available to carry out this section for any fiscal year to any small shipyard in one geographic location that has more than 600 employees.

(B) Ineligibility.-A maritime training center that has received funds awarded under section 51706 of title 46, United States Code, shall not be eligible for grants under this subsection for training purposes in the same fiscal year.

(f) Applications.-

(1) In general.-To be eligible for assistance under this section, an applicant shall submit an application, in such form, and containing such information and assurances as the Administrator may require, within 60 days after the date of enactment of the appropriations Act for the fiscal year concerned.

(2) Minimum standards for payment or reimbursement.-Each application submitted under paragraph (1) shall include a comprehensive description of-

(A) the need for the project;

(B) the methodology for implementing the project; and

(C) any existing programs or arrangements that can be used to supplement or leverage assistance under the program.

(3) Procedural safeguards.-The Administrator, in consultation with the Office of the Inspector General, shall issue guidelines to establish appropriate accounting, reporting, and review procedures to ensure that-

(A) grant funds are used for the purposes for which they were made available;

(B) grantees have properly accounted for all expenditures of grant funds; and

(C) grant funds not used for such purposes and amounts not obligated or expended are returned.

(4) Project approval required.-The Administrator may not award a grant under this section unless the Administrator determines that-

(A) sufficient funding is available to meet the matching requirements of subsection (e);

(B) the project will be completed without unreasonable delay; and

(C) the recipient has authority to carry out the proposed project.

(g) Audits and Examinations.-All grantees under this section shall maintain such records as the Administrator may require and make such records available for review and audit by the Administrator.

(h) Small Shipyard Defined.-In this section, the term "small shipyard" means a shipyard facility in one geographic location that does not have more than 1,200 employees.]

(a) Establishment.—

(1) In general.—Subject to the availability of appropriations, the Maritime Administrator shall carry out a program to provide financial assistance to shipyards for the purposes described in subsection (c).

(2) Goal.—The goal of the program shall be to fund eligible projects that will foster technical skills and operational productivity relating to shipbuilding, ship repair, and associated industries.

(b) Grant Authority.—

(1) In General.—In carrying out the program, the Maritime Administrator shall make grants to eligible applicants, on a competitive basis, in accordance with this section.

(2) Administrative costs.—Not more than two percent of amounts made available to carry out the program authorized by this section may be used for necessary costs of administration of the program authorized by this section.

(3) Availability.—

(A) In general.—Amounts appropriated to make grants for shipyards under this section shall remain available until expended.

(B) Reuse of unexpended grant funds.—Amounts awarded as a grant under this section that are not expended by the grantee during the 5-year period following the date of the award or that are returned shall remain available to the Maritime Administrator for use for grants under this section in a subsequent fiscal year.

(4) Awards.—In providing assistance under this section, the Maritime Administrator shall not select an applicant for more than one award for the same fiscal year.

(5) Amount.—For grants other than those awarded under subsection (i), the minimum award size shall be $30,000,000.

(6) Prohibited uses.—A maritime training center that has received funds awarded under section 51706 of title 46, United States Code, shall not be eligible for grants under this section for training purposes in the same fiscal year.

(c) Eligible Projects.—In general.- Assistance provided under this section may be used to—

(1) make capital and related improvements to shipyards owned or operated by eligible applicants; and

(2) provide training for workers in shipbuilding, ship repair, and associated industries.

(d) Eligible Applicants.—To be eligible for financial assistance pursuant to this section, an applicant must—

(1) have authority as owner or operator of the shipyard facility to carry out the proposed project as required by subsection (j); and

(2) be the owner or operator of a shipyard facility in a single geographic location in the United States that—

(A) constructs, repairs, or reconfigures vessels 40 feet in length or more for commercial or government use; or

(B) constructs, repairs, or reconfigures vessels 100 feet in length or more for non-commercial vessels.

(e) Buy America.

(1) In general.—Subject to paragraph (2), the Maritime Administrator shall not obligate funds under this section, unless each product and material purchased with those funds (including products and materials purchased by a grantee), and including any commercially available off-the-shelf item, is—

(A) an unmanufactured article, material, or supply that has been mined or produced in the United States; or

(B) a manufactured article, material, or supply that has been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States.

(2) Exceptions.—

(A) In general.—Notwithstanding paragraph (1), the requirements of that paragraph shall not apply with respect to a particular product or material if the Administrator determines—

(i) that the application of those requirements would be inconsistent with the public interest;

(ii) that such product or material is not available in the United States in sufficient and reasonably available quantities, of a satisfactory quality, or on a timely basis; or

(iii) that inclusion of a domestic product or material will increase the cost of that product or material by more than 25 percent, with respect to a certain contract between a grantee and that grantee's supplier.

(B) Federal Register.—A determination made by the Administrator under this subparagraph shall be published in the Federal Register.

(3) Definitions.—In this subsection—

(A) The term "commercially available off-the-shelf item" means—

(i) any item of supply (including construction material) that is—

(I) a commercial product, as defined by section 2.101 of title 48, Code of Federal Regulations (as in effect on the date of the enactment of this Act); and

(II) sold in substantial quantities in the commercial marketplace; and

(ii) does not include bulk cargo, as defined in section 40102(4) of this title, such as agricultural products and petroleum products.

(B) The term "product or material" means an article, material, or supply brought to the site by the recipient for incorporation into the building, work, or project. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site.

(C) The term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(f) Solicitation and Application.—

(1) Notice of funding opportunity.—Not later than 45 days after the date on which funds are made available to carry out the program, the Secretary shall publish a notice of funding opportunity for the funds.

(2) Applications.—

(A) To be eligible to receive a grant under this section, an applicant shall submit to the Maritime Administrator an application in such form and containing such

information and assurances as the Maritime Administrator considers to be appropriate.

(B) Such an application shall include, at minimum, a comprehensive description of—

(i) the need for the project;

(ii) the methodology for implementing the project; and

(iii) any existing programs or arrangements that can be used to supplement or leverage assistance under the program.

(3) Timing of applications.—To be eligible to receive assistance under this section, an applicant must submit an application by such date as the Maritime Administrator may establish.

(g) Primary Selection Criteria.—In awarding grants under the program, the Maritime Administrator shall evaluate the extent to which a project fosters—

(1) efficiency, competitive operations, quality ship construction, repair, and reconfiguration, and improves capacity at the shipyard (for capital improvement projects);

(2) employee skills and enhanced productivity related to shipbuilding, ship repair, and associated industries (for maritime training program projects); and

(3) improved capacity at the shipyard (for projects other than those under subsection (i)).

(h) Additional Considerations.—In selecting projects to receive grants under the program, the Maritime Administrator shall give substantial weight to—

(1) the extent to which the project improves safety;

(2) the utilization of non-Federal contributions;

(3) the utilization of nontraditional financing, innovative design and construction techniques, or innovative technologies;

(4) the extent to which the project supports critical shipbuilding and ship repair infrastructure as determined by the Maritime Administrator; and

(5) contributions to geographic diversity among grant recipients.

(i) Assistance to Small Shipyards.—

(1) Allocation of Funds.—The Maritime Administrator shall reserve not less than 25 percent of the amounts made available for grants under this section each fiscal year to make grants to eligible applicants for eligible projects at shipyard facilities that have 1,200 production employees or fewer in one geographic location.

(2) Limitations.—

(A) Grants awarded under this subsection may not be used to construct buildings or other physical facilities or to acquire land.

(B) No more than 25 percent of the funds available under this subsection may be awarded to any small shipyard in one geographic location that has more than 600 production employees.

(3) Production Employees.—In this section, production employees include eligible applicant employees directly engaged in repair, construction, or reconstruction of vessels and does not include—

(A) employees primarily engaged in administration, engineering, or support functions; or

(B) contractors of any kind.

(j) Conditions on Provision of Assistance.—The Maritime Administrator may not award a grant under this section unless the Maritime Administrator determines that—

(1) sufficient funding is available to meet the matching requirements of subsection (l);

(2) the project will be completed without unreasonable delay; and

(3) the recipient has authority to carry out the proposed project.

(k) Awards.—

(1) Except as provided in subparagraph (2), not later than 270 days after the date on which amounts are made available to provide grants under the program for a fiscal year, the Maritime Administrator shall announce the selection of awards of eligible projects to receive grants in accordance with this section.

(2) For projects selected under subsection (i), the Maritime Administrator shall announce the selection of awards of eligible projects not later than 150 days after the date on which amounts are made available to provide grants under the program for a fiscal year, in accordance with this section.

(l) Federal Share.—The Federal share of the cost of an eligible project carried out using a grant provided under the program shall not exceed 75 percent.

(m) Technical Assistance.—

(1) In general.—On request of an eligible applicant that submitted an application for a project that is not selected to receive a grant under the program, the Maritime Administrator shall provide to the eligible applicant technical assistance and briefings relating to the project.

(2) Treatment.—Technical assistance provided under this paragraph shall not be considered a guarantee of future selection of the applicable project under the program.

(n) Audits and Examinations.—All grantees under this section shall maintain such records as the Maritime Administrator may require and make such records available for review and audit by the Maritime Administrator.

(o) Procedural safeguards.—The Maritime Administrator, in consultation with the Office of the Inspector General, shall issue guidelines to establish appropriate accounting, reporting, and review procedures to ensure that-

(1) grant funds are used for the purposes for which they were made available;

(2) grantees have properly accounted for all expenditures of grant funds; and

(3) grant funds not used for such purposes and amounts not obligated or expended are returned.

SEC. ___. FEDERAL SHIP FINANCING PROGRAM IMPROVEMENTS.

(a) Section 53701 of title 46, United States Code, is amended—

(1) in paragraph (3), by inserting “retrofitting, reconfiguration, or similar work, as well as” after “include”;

(2) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (9) respectively and redesignating paragraphs (8) through (15) as paragraphs (11) through (18) respectively;

(3) by inserting after paragraph (4) the following new paragraph:

“(5) Eligible export vessel.—The term "eligible export vessel" means a vessel that—

“(A) is constructed, reconstructed, or reconditioned in the United States for use in world-wide trade; and

“(B) will, on delivery or redelivery, become or remain documented under the laws of a country other than the United States.”;

(4) by inserting after paragraph (7), as redesignated by paragraph (2), the following new paragraph:

“(8) General shipyard facility.—The term "general shipyard facility" means—

“(A) for operations on land—

“(i) a structure or appurtenance thereto designed for the construction, reconstruction, repair, rehabilitation, or refurbishment of a vessel, including a graving dock, building way, ship lift, wharf, or pier crane;

“(ii) the land necessary for the structure or appurtenance; and

“(iii) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (i); and

“(B) for operations not on land, a vessel, floating drydock, or barge built in the United States and used for, equipped to be used for, or of a type normally used for, performing a function referred to in subparagraph (A)(i).”; and

(5) by inserting after paragraph (9), as redesignated by paragraph (2), the following new paragraph:

“(10) Modern shipbuilding technology.—The term "modern shipbuilding technology" means the best available proven technology, techniques, and processes appropriate to

enhancing the productivity of shipyards, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.”.

(b) Section 53703 of title 46, United States Code, is amended by—

(1) in subsection (a)—

(A) in paragraph (1), by striking “signed application” and inserting “completed application”;

(B) by striking paragraph (2) and inserting the following:

“(2) Additional information.—

“(A) The Secretary or the Administrator may—

“(i) request from an applicant additional information required to complete the review of an application; and

“(ii) establish a deadline for the applicant to provide such information.

“(B) If the applicant does not respond to the request for additional information, the Secretary or Administrator may—

“(i) notify the applicant that processing of the application will be suspended until the additional information is received; and

“(ii) toll the time for the decision.”; and

(2) In subsection (c), by amending paragraph (1)(D) to read as follows:

“(D) recommend financial covenants or financial ratios to be met by the applicant during the time a guarantee under this chapter is outstanding that are—

“(i) based on the financial covenants or financial ratios that are then applicable to the obligor under private sector credit agreements, if any; or

“(ii) in lieu of other financial covenants appropriate to the obligor under this chapter when evaluating the risks of the project for compliance with the requirements of section 53708 of this title; and”.

(c) Section 53704(a) of title 46, United States Code, is amended—

(1) in subsection (a), by striking the second sentence and inserting:

"Of that amount—

"(1) $850,000,000 shall be limited to obligations related to fishing vessels and fishery facilities; and

"(2) $3,000,000,000 shall be limited to obligations related to eligible export vessels."; and

(2) in subsection (c)(4), by adding the following new subparagraph at the end:

"(K) if applicable, the country risk for each eligible export vessel financed or to be financed by an obligation.".

(d) Section 53706(a) of title 46, United States Code, is amended—

(1) in paragraph (1)(A)—

(A) by striking "Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning, of a vessel" and inserting "Financing, including reimbursement of an obligor for expenditures previously made for, the construction, reconstruction, reconditioning, or purchase of a vessel (including an eligible export vessel)" before "designed principally for research,";

(B) in clause (iv), by striking the last "or";

(C) in clause (v), by striking the period and inserting at the end "; or"

(D) at the end of subparagraph (A), by inserting the following new clause:

"(vi) as an eligible export vessel in worldwide trade."; and

(2) by striking paragraph (8).

(e) Section 53707(b) of title 46, United States Code, is amended by striking "construction, reconstruction, or reconditioning" and inserting "construction, reconstruction, reconditioning, or purchase".

(f) Section 53708(c) of title 46, United States Code, is amended—

(1) by deleting "Fishing" before "Vessels" and inserting "Fishing" before "Facilities"; and

(2) by amending paragraph (1) to read as follows:

"(1) in the case of a used vessel, reconstructed or reconditioned in the United States and will contribute to the development of the United States commercial shipbuilding or fishing industries; or".

(g) Section 53709(b) of title 46, United States Code, is amended by—

(1) in paragraph (1)—

(A) by deleting "75 percent" and inserting "87.5 percent";

(B) by inserting "including eligible export vessels," after "of the vessel,";

(C) by deleting the period at the end of the paragraph and inserting ", provided that the size and speed of the vessel are approved by the Secretary or Administrator.";

(2) by deleting paragraphs (2); and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3) respectively.

(h) Section 53710(a)(4)(A) of title 46, United States Code, is amended by inserting "or, in the case of an eligible export vessel, of the appropriate foreign authorities under a treaty, convention, or other international agreement to which the United States is a party" after "Coast Guard".

(i) Section 53714 of title 46, United States Code, is amended by inserting the following new paragraph as the end of subsection (b):

"(6) Fees in excess of the cost of a project.— For projects where the minimum percentage rate calculated under paragraph (5) exceeds the cost of a project required by section 53704(c) of this title and section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a) such minimum percentage rate may be reduced to not exceed the cost of the project.".

(j) Section 53715 of title 46, United States Code, is amended—

(1) in subsection (a)(1)(B), by deleting "75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title," and inserting "87.5 percent or whichever percentage is applicable under section 53709(b) of this title"; and

(2) in subsection (e)(1)(A)(ii), by deleting "75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title," and inserting "87.5 percent or whichever percentage is applicable under section 53709(b) of this title".

(k) Section 53723 of title 46, United States Code, is amended—

(1) subsection (a), by striking "shall be paid in cash." and inserting "shall be—

"(1) paid in cash; and

"(2) include any applicable principal, interest, capitalized interest, premium, and late charges, if the obligation is held by the Federal Financing Bank.

"(b) Subrogation. – If the Secretary or the Administrator makes a payment under this section, the Secretary or the Administrator shall be subrogated to the rights of the recipient of the payment as specified in the guarantee or related agreements."; and

(2) by redesignating subsections (b) through (d) as subsections (c) through (e) respectively.

(l) Section 53733 of title 46, United States Code, is amended—

(1) by striking subsection (a) and redesignating subsections (b) through (e) as subsections (a) through (d) respectively;

(2) in subsection (a), as redesignated,--

(A) by striking "advanced shipbuilding technology and modern shipbuilding technology" and inserting "shipyard capital improvements, including infrastructure and modern shipbuilding technology,"; and

(B) by striking "Only a private shipyard is eligible to receive a guarantee" and inserting "To be eligible to receive a guarantee the obligor must have the authority to modify the general shipyard facility";

(3) in subsection (c), as redesignated, by striking "advanced shipbuilding technology" and inserting "shipyard capital improvements, infrastructure,"; and

(4) by inserting the following new subsection (e):

"(e) Made in America—The Administrator must exclude foreign components from a project eligible for a guarantee under this section, unless the Administrator grants a waiver based on non-availability of such foreign components due to timely availability, sufficient quality, or price competitive basis."; and

(5) by striking subsection (f).

(m) Section 53734(b)(2) of title 46, United States Code, is amended by striking "construction or reconstruction" and inserting "construction, or refinancing and reconstruction,".

(n) Repeal in National Defense Authorization Act.—Sections 3506(i)(2) and 3506(1)(2) of the National Defense Authorization Act of Fiscal Year 2020 (Public Law 116-92) are repealed, and the provisions of law that were repealed or amended by these sections are reenacted and amended, respectively, to read as if such sections were not enacted.

Analysis:

This proposal would amend the Federal Ship Financing Program (Title XI) statute (46 U.S.C. chapter 537) to: (1) restore authority for MARAD to guarantee loans for vessels the recipient intends to operate under a foreign flag (referred to as "export authority" hereinafter, which Congress removed from the statute in 2019), (2) expand the scope of its shipyard financing authority, and (3) make technical amendments to improve administration of the program.

The proposed export financing provisions are substantially the same as the language Congress deleted in 2019. MARAD recommends restoring the export authority to provide the volume of work necessary to make the U.S. shipbuilding industry self-sustaining over the long-term. The U.S. shipbuilding industry will have a very difficult time generating significant and recurring volume when it only caters to the Jones Act trade. All major shipbuilding countries provide financial support to shipbuilders and ship buyers to encourage production at scale. The addition of export authority for Title XI would be a small step toward leveling the playing field for U.S. shipyards with their foreign counterparts.

Executive Order 14269, *Restoring America's Maritime Dominance*, directs MARAD to propose financial incentives programs to incentivize capital improvements to commercial shipyards. The current shipyard financing provision is focused on equipment financing. The proposed provisions expand the program beyond equipment, to include financing for large-scale infrastructure projects. In combination with MARAD's other shipyard support programs, the Administration can maximize incentives for shipyards to rapidly modernize their facilities and infrastructure. Shipyards in the United States need significant capital investment in infrastructure to be competitive with foreign yards and build at scale. The current statutory language effectively prohibits lending to shipyards for major infrastructure upgrades. Most U.S. shipyards have not invested the capital in infrastructure necessary to allow them to build ships using modern, efficient shipbuilding methods. Shipyards have shown significant interest in the last couple of years to access Title XI funding for these upgrades, but the program has not been able to assist them.

Finally, the Title XI statute requires technical amendments to account for modern program management and business practices and resolve confusion that has resulted from piecemeal amendments to the statute over the last couple of decades. The proposed changes would do the following:

1. Modify the statutory timeline for approvals or denials to allow MARAD to toll the review time an applicant does not respond to MARAD requests for additional information within the prescribed time. This aligns Title XI with the practice of other federal credit programs.
2. Add a provision that allows MARAD, rather than the applicant, to pay principal, interest, capitalized interest, premium, and late charges to the Federal Financing Bank. The change would eliminate applicant confusion about the need to maintain additional funds with MARAD for that purpose.
3. Correct an error in the section regarding replacement vessels that significantly limited the intended use of that section. This correction allows a vessel that is being refurbished due to legal changes in operation standards (i.e., environmental requirements) to finance the

cost of that work and refinance existing debt that needs to be paid off for MARAD to obtain a first preferred mortgage as required by statute. Without this change, any existing debt on the vessel cannot be paid off and prevents MARAD from getting a first preferred mortgage on the vessel thereby preventing otherwise qualified applicants from utilizing the Title XI program.

4. Add subrogation language to improve the program risk mitigation authority and align it with similar authority for programs in the Department of Energy's Loan Program Office.
5. Adjust the language in the authority guiding Title XI's use of third-party financial advisors to eliminate outdated provisions that could be interpreted to limit the program's ability to mitigate risk.
6. Align authority for using Title XI financing for construction, reconstruction, and refinancing so it is the same for all vessel types. Currently there is ambiguity as to the level of financing available through MARAD's Title XI program and the associated National Oceanic and Atmospheric Administration program for financing fisheries vessels.
7. Delete a citation to the Merchant Marine Act of 1936 in the maximum lending amount section, which will eliminate confusion with applicants about project funding eligibility.
8. Consolidate all the definitions for the statute into one section.

MARAD recommends these amendments pursuant to requirements of Sections 10 and 17 of Executive Order 14269, *Restoring America's Maritime Dominance*, which require MARAD to provide legislative proposals to establish financial incentives for U.S. shipbuilding and increase the fleet of vessels trading internationally under the U.S. flag. The changes would enable the program to operate more efficiently and provides incentives for the construction of vessels in United States shipyards. Additionally, correcting the myriad of technical issues to the statute encourages greater use of the program by making the program more easily understood and accessible to the maritime industry.

Section-by-Section Summary:

This section-by-section analysis provides additional details regarding the specific changes this proposal would make to the current statute.

Subsection (a):

The proposal amends 46 U.S.C. § 53701 by—

- Changing the definition of "Construction, reconstruction, and reconditioning" to include eligible types of obligations identified in 46 U.S.C. § 53706(a)(8).
- Adding "Eligible export vessel" as a new definition to align with the new export vessel authority proposed in 46 U.S.C. § 53732.
- Moving the definitions of "General shipyard facility" and "Modern shipbuilding technology" from 46 U.S.C. § 53733(a)(2)-(3) to § 53701.

Subsection (b):

The proposal amends 46 U.S.C. § 53703 by—

- Making a technical modification to the agency's approval timeline in paragraph (a)(1) to conform with MARAD policy. This change makes clear that the 270-day timeline to approve or deny an application starts on the date when MARAD considers an application to be complete so that the project may be evaluated, not on the date of application.
- Changing the language in paragraph (a)(2) to conform the Title XI program with other Federal credit programs that allow for pausing processing time limits.
- Making a technical modification in paragraph (c)(1)(D) to clarify the role of the financial advisor and remove confusing language about the requirement to use limited and possibly inappropriate financial metrics for default risk mitigation.

Subsection (c):

The proposal amends 46 U.S.C. § 53704(a) by—

- Adding back eligible export vessel language in paragraph (a)(1) addressing the limitation on obligation amounts that was deleted in 2019.
- Adding to the new version of the export authorization a new paragraph (c)(4)(K), which adds "country risk" as a risk factor.

Subsection (d):

The proposal amends 46 U.S.C. § 53706(a) by—

- Making edits in paragraph (a)(1)(A) to make clear that Title XI financing is available to finance the purchase of a vessels if major work on the vessel is being done in U.S. shipyards. This change aligns the commercial vessel financing authority with the existing fishing vessel financing authority to avoid confusion by industry. This clarification also provides opportunities to increase repair yard activities subject to the limitations in section 53708.
- Adding export vessels as an eligible program financing obligation into subsections (a)(1)(A) and (a)(1)(A)(vi).
- Deleting paragraph (a)(8) for consistency with paragraph (a)(1) and removing minor repairs as an eligible purpose for program obligations. The Title XI program is focused on vessel construction and reconstruction, not simple repairs.

Subsection (e):

- The proposal amends 46 U.S.C. § 53707(b) by making a conforming edit in paragraph (b) to align with changes to section 53706 to clarify programmatic authority to finance vessel purchases.

Subsection (f):

- The proposal amends 46 U.S.C. § 53708(c) by aligning the limitation of program eligibility to purchasing commercial vessels that will generate domestic shipyard activity with the existing limit for fishing vessels.

Subsection (g):

- The proposal amends 46 U.S.C. § 53709(b) by deleting references to an uncodified portion of the Merchant Marine Act of 1936 and a limit on the maximum principal amount of a guarantee.
- The proposal also explicitly makes export vessels eligible.

Subsection (h):

- The proposal amends 46 U.S.C. § 53710 by amending subsection (a)(4) to add the requirement for and clarify the acceptable forms of non-U.S. marine documentation for verification of vessel condition for eligible export vessels used as security for a loan guarantee.

Subsection (i):

- The proposal amends 46 U.S.C. § 53714 by adding new subsection (b)(6) to modify the guarantee fee calculation to allow for elimination of "negative subsidy" (i.e., in occasional instances when the amount of the guarantee fee exceeds the cost of the loan under the Federal Credit Reporting Act). This change eliminates the extra administrative burden created in these instances and aligns Title XI with administration of other Federal credit programs.

Subsection (j):

- The proposal amends 46 U.S.C. § 53715 by amending subsections (a)(1)(B) and (e) to conform with the change to section 53709(b).

Subsection (k):

The proposal amends 46 U.S.C. § 53723 by—

- Adding new subsection (a)(2) to allow MARAD to pay principal, interest, capitalized interest, premium, and late charges. This addresses a Federal Financing Bank (FFB) concern that results in MARAD having to estimate costs of a possible future payment delay and hold money in a reserve fund for that purpose. The existing requirement appears to be unique to Title XI and creates confusion for applicants.
- Adding a new subsection (b) to clarify that MARAD has rights to the FFB promissory note in the event it is paid. The new language would resolve confusion about MARAD's right to demand payment after MARAD assumes the promissory note.

Subsection (l):

The proposal amends 46 U.S.C. § 53733 by—

- Deleting the definitions in subsection (a) and moving them to section 53701. Section 53701 contains the rest of the definitions in the statute. The definition of "Advanced shipbuilding technology" in subsection 53733(a)(1) is deleted and not moved because it causes the reader confusion with the definition of "modern shipbuilding technology" and is substantially similar.
- Redesignating subsection (b) as subsection (a) and renumbering the subsequent subsections under section 53733.

- Amending the statute in subsection (a), as redesignated, to expand the scope of eligibility to include all capital improvements for shipyards. The current language is limited to equipment and shipyard needs are greater in scope. This change will allow for broader financing assistance to shipyards.
- Amending subsection (d), as redesignated, to conform with the other changes in section 53733.
- Amending subsection (e), as redesignated, to make a technical change to clarify that foreign content cannot be used without a waiver.

Subsection (m):

- The proposal amends section 46 U.S.C. § 53734 by amending subsection (b)(2) to conform with other proposed technical changes.

Subsection (n):

- The proposal repeals a section in the FY 2020 National Defense Authorization Act that removed section 53732 from chapter 537 of title 46, United States Code, and reenacts the section. Congress repealed section 53732 as part of a large update to the Title XI program authority. This proposal reenacts this section to expand the program authority to guarantee loan obligations for eligible export vessels.

Comparative Type:

(Italicized, bracketed language is to be deleted; bold, underlined language is to be added.)

"Chapter 537--Loans and Guarantees"

SUBCHAPTER I – FRONT MATTER

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SUBCHAPTER III—PARTICULAR PROJECTS
"53731. Commercial demonstration ocean thermal energy conversion facilities and plantships.
"53732. [*Repealed*.] **Eligible Export Vessels.**
"53733. Shipyard modernization and improvement.
"53734. Replacement of vessels because of changes in operating standards.
"53735. Fisheries financing and capacity reduction.

46 U.S.C. § 53701. Definitions

In this chapter:

(1) Actual cost.—The term "actual cost" means the sum of—

(A) all amounts paid by or for the account of the obligor as of the date on which a determination is made under section 53715(d)(1) of this title; and

(B) all amounts that the Secretary or Administrator reasonably estimates the obligor will become obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of the vessel, including guarantee fees that will become payable under section 53714 of this title in connection with all obligations issued for construction, reconstruction, or reconditioning of the vessel or equipment to be delivered, and all obligations issued for the delivered vessel or equipment.

(2) Administrator.—The term "Administrator" means the Administrator of the Maritime Administration.

(3) Construction, reconstruction, and reconditioning.—The terms "construction", "reconstruction", and "reconditioning" include **retrofitting, reconfiguring, or similar work, as well as** designing, inspecting, outfitting, and equipping.

(4) Depreciated actual cost.—The term "depreciated actual cost" of a vessel means—

(A) if the vessel was not reconstructed or reconditioned, the actual cost of the vessel depreciated on a straight line basis over the useful life of the vessel as determined by the Secretary or Administrator, not to exceed 25 years from the date of delivery by the builder; or

(B) if the vessel was reconstructed or reconditioned, the sum of—

(i) the actual cost of the vessel depreciated on a straight line basis from the date of delivery by the builder to the date of the reconstruction or reconditioning, using the original useful life of the vessel, and from the date of the reconstruction or reconditioning, using a useful life of the vessel determined by the Secretary or Administrator; and

(ii) any amount paid or obligated to be paid for the reconstruction or reconditioning, depreciated on a straight line basis using a useful life of the vessel determined by the Secretary or Administrator.

(5) Eligible export vessel.—The term "eligible export vessel" means a vessel that—

(A) is constructed, reconstructed, or reconditioned in the United States for use in world-wide trade; and

(B) will, on delivery or redelivery, become or remain documented under the laws of a country other than the United States.

*[(5)]***(6)** Fishery facility.—

(A) In general.—Subject to subparagraph (B), the term "fishery facility" means—

(i) for operations on land—

(I) a structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from a fishery;

(II) the land necessary for the structure or appurtenance; and

(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (I);

(ii) for operations not on land, a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, the processing of fish; or

(iii) for aquaculture, including operations on land or elsewhere—

(I) a structure or appurtenance thereto designed for aquaculture;

(II) the land necessary for the structure or appurtenance;

(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (I); and

(IV) a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, aquaculture.

(B) Required ownership.—Under subparagraph (A), the structure, appurtenance, land, equipment, or vessel must be owned by—

(i) an individual who is a citizen of the United States; or

(ii) an entity that is a citizen of the United States under section 50501 of this title and that is at least 75 percent owned (as determined under that section) by citizens of the United States.

*[(6)]***(7)** Fishing vessel.—The term "fishing vessel" has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802), and any reference in this chapter to a vessel designed principally for commercial use in the fishing trade or industry is deemed to be a reference to a fishing vessel.

(8) General shipyard facility.—The term "general shipyard facility" means—

(A) for operations on land—

(i) a structure or appurtenance thereto designed for the construction, reconstruction, repair, rehabilitation, or refurbishment of a vessel, including a graving dock, building way, ship lift, wharf, or pier crane;

(ii) the land necessary for the structure or appurtenance; and

(iii) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (i); and

(B) for operations not on land, a vessel, floating drydock, or barge built in the United States and used for, equipped to be used for, or of a type normally used for, performing a function referred to in subparagraph (A)(i).

*[(7)]***(9)**Historical uses.—The term "historical uses" includes—

(A) refurbishing, repairing, rebuilding, or replacing equipment on a fishing vessel, without materially increasing harvesting capacity;

(B) purchasing a used fishing vessel;

(C) purchasing, constructing, expanding, or reconditioning a fishery facility;

(D) refinancing existing debt;

(E) reducing fishing capacity; and

(F) making upgrades to a fishing vessel, including upgrades in technology, gear, or equipment, that improve—

(i) collection and reporting of fishery-dependent data;

(ii) bycatch reduction or avoidance;

(iii) gear selectivity;

(iv) adverse impacts caused by fishing gear; or

(v) safety.

(10) Modern shipbuilding technology.—The term "modern shipbuilding technology" means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of shipyards, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

*[(8)]***(11)**Mortgage.—The term "mortgage" includes—

(A) a preferred mortgage as defined in section 31301 of this title; and

(B) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of this title.

*[(9)]***(12)** Obligation.—The term "obligation" means an instrument of indebtedness issued for a purpose described in section 53706 of this title, except—

(A) an obligation issued by the Secretary or Administrator under section 53723 of this title; and

(B) an obligation eligible for investment of funds under section 53715(f) or 53717 of this title.

*[(10)]***(13)** Obligee.—The term "obligee" means the holder of an obligation.

*[(11)]***(14)** Obligor.—The term "obligor" means a party primarily liable for payment of the principal of or interest on an obligation.

*[(12)]***(15)**Ocean thermal energy conversion facility or plantship.—The term "ocean thermal energy conversion facility or plantship" means an at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, that uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes—

(A) equipment installed on the facility or vessel to use the electricity or other form of energy to produce, process, refine, or manufacture a product;

(B) a cable or pipeline used to deliver the electricity, freshwater, or product to shore; and

(C) other associated equipment and appurtenances of the facility or vessel to the extent they are located seaward of the high water mark.

*[(13)]***(16)**Secretary.—The term "Secretary" means the Secretary of Commerce with respect to fishing vessels and fishery facilities.

*[(14)]***(17)**Vessel.—The term "vessel" means any type of vessel, whether in existence or under construction, including—

(A) a cargo vessel;

(B) a passenger vessel;

(C) a combination cargo and passenger vessel;

(D) a tanker;

(E) a tug or towboat;

(F) a barge;

(G) a dredge;

(H) a floating drydock with a capacity of at least 35,000 lifting tons and a beam of at least 125 feet between the wing walls;

(I) an oceanographic research vessel;

(J) an instruction vessel;

(K) a pollution treatment, abatement, or control vessel;

(L) a fishing vessel whose ownership meets the citizenship requirements under section 50501 of this title for documenting vessels to operate in the coastwise trade; and

(M) an ocean thermal energy conversion facility or plantship that is or will be documented under the laws of the United States.

[*(15)]***(18)**Vessel of national interest.—The term "Vessel of National Interest" means a vessel deemed to be of national interest that meets characteristics determined by the Administrator, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating when it is not operating as a service in the Department of the Navy, or the heads of other Federal agencies, as described in section 53703(d).

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46 U.S.C. § 53703. Application and administration

(a) Time for Decision.—

(1) In general.—The Secretary or Administrator shall approve or deny an application for a loan guarantee under this chapter within 270 days after the date on which the *[signed application]* **completed application** is received by the Secretary or Administrator.

[(2) Extension.—On request by an applicant, the Secretary or Administrator may extend the 270-day period in paragraph (1) to a date not later than 2 years after the date on which the signed application was received by the Secretary or Administrator.]

(2) Request for additional information.—

(A) The Secretary or the Administrator may—

(i) request from an applicant additional information that is required to complete the review of an application; and

(ii) establish a deadline for the applicant to provide such information.

(B) If the applicant does not respond to the request under paragraph (2), the Secretary or Administrator may--

(i) notify the applicant that processing of the application will be suspended until the additional information is received; and

(ii) toll the time for the decision during such period.

(b) Certification of Review.—The Secretary or Administrator may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary or Administrator certifies that a full and fair consideration of all the regulatory requirements, including economic soundness and financial requirements applicable to the obligor and related parties, and a thorough assessment of the technical, economic, and financial aspects of the loan application, has been made.

(c) Independent Analysis.—

(1) In general.—To assess and mitigate the risks due to factors associated with markets, technology, financial, or legal structures related to an application or guarantee under this chapter, the Secretary or Administrator may utilize third party experts, including legal counsel, to—

(A) process and review applications under this chapter, including conducting independent analysis and review of aspects of an application;

(B) represent the Secretary or Administrator in structuring and documenting the obligation guarantee;

(C) analyze and review aspects of, structure, and document the obligation guarantee during the term of the guarantee;

[(D) recommend financial covenants or financial ratios to be met by the applicant during the time a guarantee under this chapter is outstanding that are—

(i) based on the financial covenants or financial ratios, if any, that are then applicable to the obligor under private sector credit agreements; and

(ii) in lieu of other financial covenants applicable to the obligor under this chapter with respect to requirements regarding long-term debt-to-equity, minimum working capital, or minimum amount of equity; and]

(D) recommend financial covenants or financial ratios to be met by the applicant during the time a guarantee under this chapter is outstanding that are—

(i) based on the financial covenants or financial ratios that are then applicable to the obligor under private sector credit agreements, if any; or

(ii) in lieu of other financial covenants appropriate to the obligor under this chapter when evaluating the risks of the project for compliance with the requirements of section 53708 of this title; and

(E) represent the Secretary or Administrator to protect the security interests of the Government relating to an obligation guarantee.

(2) Private sector expert.—Independent analysis, review, and representation conducted under this subsection shall be performed by a private sector expert in the applicable field who is selected by the Secretary or Administrator.

(d) Vessels of National Interest.—

(1) Notice of funding.—The Secretary or Administrator may post a notice in the Federal Register regarding the availability of funding for obligation guarantees under this chapter for the construction, reconstruction, or reconditioning of a Vessel of National Interest and include a timeline for the submission of applications for such vessels.

(2) Vessel characteristics.—

(A) In general.—The Secretary or Administrator, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating when it is not operating as service in the Department of the Navy, or the heads of other Federal agencies, shall develop and publish a list of vessel types that would be considered Vessels of National Interest.

(B) Review.—Such list shall be reviewed and revised every four years or as necessary, as determined by the Administrator.

46 U.S.C. § 53704. Funding limits

(a) General Limitations.—The total unpaid principal amount of obligations guaranteed under this chapter and outstanding at one time may not exceed $12,000,000,000. *[Of that amount, $850,000,000 shall be limited to obligations related to fishing vessels and fishery facilities.]***Of that amount—**

(1) $850,000,000 shall be limited to obligations related to fishing vessels and fishery facilities; and

(2) $3,000,000,000 shall be limited to obligations related to eligible export vessels.

(b) Additional Limitations.—Additional limitations may not be imposed on new commitments to guarantee loans for any fiscal year, except in amounts established in advance by annual authorization laws. A vessel eligible for a guarantee under this chapter may not be denied eligibility because of its type.

(c) Limits Based on Risk Factors.—

(1) Definition.—In this subsection, the term "cost" has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(2) System of risk categories.—The Secretary or Administrator shall—

(A) establish, and update annually, a system of risk categories for obligations guaranteed under this chapter that categorizes the relative risk of guarantees based on the risk factors set forth in paragraph (4);

(B) determine annually for each risk category a subsidy rate equivalent to the cost of obligations in the category, expressed as a percentage of the amount guaranteed for obligations in the category; and

(C) ensure that each risk category is comprised of loans that are relatively homogeneous in cost and share characteristics predictive of defaults and other costs, given the facts known at the time of obligation or commitment, using a risk category system that is based on historical analysis of program data and statistical evidence concerning the likely costs of defaults or other costs that are expected to be associated with the loans in the category.

(3) Use of system.—

(A) Placing obligation in category.—Before making a guarantee under this chapter for an obligation, and annually for projects subject to a guarantee, the Secretary or Administrator shall apply the risk factors specified in paragraph (4) to place the obligation in a risk category established under paragraph (2).

(B) Reduction of available amount.—The Secretary or Administrator shall consider the total amount available to the Secretary or Administrator for making guarantees under this chapter to be reduced by the amount determined by multiplying—

(i) the amount guaranteed under this chapter for an obligation; by

(ii) the subsidy rate for the category in which the obligation is placed under subparagraph (A).

(C) Estimated cost.—The estimated cost to the United States Government of a guarantee under this chapter for an obligation is deemed to be the amount determined under subparagraph (B) for the obligation.

(D) Restriction on further guarantees.—The Secretary or Administrator may not guarantee obligations under this chapter after the total amount available to the Secretary or Administrator under appropriations laws for the cost of loan guarantees is considered to be reduced to zero under subparagraph (B).

(4) Risk factors.—The risk factors referred to in this subsection are—

(A) the period for which an obligation is guaranteed or to be guaranteed;

(B) the amount of an obligation guaranteed or to be guaranteed in relation to the total cost of the project financed or to be financed by the obligation;

(C) the financial condition of an obligor or applicant for a guarantee;

(D) if applicable, other guarantees related to the project;

(E) if applicable, the projected employment of each vessel or equipment to be financed with an obligation;

(F) if applicable, the projected market that will be served by each vessel or equipment to be financed with an obligation;

(G) the collateral provided for a guarantee for an obligation;

(H) the management and operating experience of an obligor or applicant for a guarantee;

(I) whether a guarantee under this chapter is or will be in effect during the construction period of the project; [*and]*

(J) the concentration risk presented by an unduly large percentage of loans outstanding by any one borrower or group of affiliated borrowers[.]**; and**

(K) if applicable, the country risk for each eligible export vessel financed or to be financed by an obligation.

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46 U.S.C. § 53706. Eligible purposes of obligations

(a) In General.—To be eligible for a guarantee under this chapter, an obligation must aid in any of the following:

(1)(A) *[Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a vessel]* **Financing, including reimbursement of an obligor for expenditures previously made for, the construction, reconstruction, reconditioning, or purchase of a vessel (including an eligible export vessel)** designed principally for research, or for commercial use—

(i) in the coastwise or intercoastal trade;

(ii) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States;

(iii) in foreign trade as defined in section 109(b) of this title;

(iv) as an ocean thermal energy conversion facility or plantship; *[or]*

(v) as a floating drydock in the construction, reconstruction, reconditioning, or repair of vessels**; or**

(vi) as an eligible export vessel in worldwide trade.

(B) A guarantee under subparagraph (A) may not be made more than one year after delivery of the vessel (or redelivery if the vessel was reconstructed or reconditioned) unless the proceeds of the obligation are used to finance the construction, reconstruction, or reconditioning of a vessel or of facilities or equipment related to marine operations.

(2) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a vessel owned by citizens of the United States and designed principally for research, or for commercial use in the fishing industry.

(3) Financing the purchase, reconstruction, or reconditioning of a vessel or fishery facility—

(A) for which an obligation was guaranteed under this chapter; and

(B) that, under subchapter II of this chapter—

(i) is a vessel or fishery facility for which an obligation was accelerated and paid;

(ii) was acquired by the Federal Ship Financing Fund or successor account under section 53717 of this title; or

(iii) was sold at foreclosure begun or intervened in by the Secretary or Administrator.

(4) Financing any part of the repayment to the United States Government of any amount of a construction-differential subsidy paid for a vessel.

(5) Refinancing an existing obligation (regardless of whether guaranteed under this chapter) issued for a purpose described in paragraphs (1)–(4), including a short-term obligation incurred to obtain temporary funds with the intention of refinancing.

(6) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a fishery facility.

(7) Financing or refinancing—

(A) the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (including the reimbursement of obligors for expenditures previously made for such a purchase);

(B) activities that assist in the transition to reduced fishing capacity; or

(C) technologies or upgrades designed to improve collection and reporting of fishery-dependent data, to reduce bycatch, to improve selectivity or reduce adverse impacts of fishing gear, or to improve safety.

[(8) Financing (including reimbursement of an obligor for expenditures previously made for) the reconstruction, reconditioning, retrofitting, repair, reconfiguration, or similar work in a shipyard located in the United States.]

(b) Non-Vessels Treated as Vessels.—An obligation guaranteed under subsection (a)(6) or (7) shall be treated, for purposes of this chapter, in the same manner and to the same extent as an obligation that aids in financing the construction, reconstruction, reconditioning, or purchase of a vessel, except with respect to provisions that by their nature can only be applied to vessels.

(c) Priorities for Certain Vessels.—

(1) Vessels.—In guaranteeing or making a commitment to guarantee an obligation under this chapter, the Administrator shall give priority to—

(A) a vessel that is otherwise eligible for a guarantee and is constructed with assistance under subtitle D of the Maritime Security Act of 2003 (46 U.S.C. 53101 note);

(B) after applying subparagraph (A), a vessel that is otherwise eligible for a guarantee and that the Secretary of Defense determines—

(i) is suitable for service as a naval auxiliary in time of war or national emergency; and

(ii) meets a shortfall in sealift capacity or capability; and

(C) after applying subparagraphs (A) and (B), Vessels of National Interest.

(2) Time for determination.—The Secretary of Defense shall determine whether a vessel satisfies paragraph (1)(B) not later than 30 days after receipt of a request from the Administrator for such a determination.

46 U.S.C. § 53707. Findings related to obligors and operators

(a) Responsible Obligor.—The Secretary or Administrator may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary or Administrator finds that the obligor is responsible and has the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of each vessel that will serve as security for the guarantee.

(b) Operators of Liner Vessels.—The Administrator may not guarantee or make a commitment to guarantee a loan for the *[construction, reconstruction, or reconditioning]* **construction, reconstruction, reconditioning, or purchase** of a liner vessel under this chapter unless the Chairman of the Federal Maritime Commission certifies that the operator of the vessel has not been found by the Commission to have committed, within the previous 5 years—

(1) a violation of part A of subtitle IV of this title that involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port; or

(2) a violation of part B of subtitle IV of this title.

(c) Operators of Fishing Vessels.—The Secretary may not guarantee or make a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a fishing vessel under this chapter if the operator of the vessel has been—

(1) held liable, or the vessel has been held liable in rem, for a civil penalty under section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858) and the operator has not paid the penalty;

(2) found guilty of an offense under section 309 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859) and not paid the assessed fine or served the assessed sentence;

(3) held liable for a civil or criminal penalty under section 105 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375) and not paid the assessed fine or served the assessed sentence; or

(4) held liable for a civil penalty by the Coast Guard under this title or title 33 and not paid the assessed fine.

(d) Waivers Concerning Financial Condition.—The Secretary or Administrator shall prescribe regulations concerning circumstances under which waivers of, or exceptions to, otherwise applicable regulatory requirements concerning financial condition can be made. The regulations shall require that—

(1) the economic soundness requirements in section 53708(a) of this title are met after the waiver of the financial condition requirement; and

(2) if the Secretary or Administrator considers necessary, the waiver shall provide for the imposition of other requirements on the obligor designed to compensate for any significant increase in risk associated with the obligor's failure to meet regulatory requirements applicable to financial condition.

46 U.S.C. § 53708. Findings related to economic soundness

(a) By Administrator.—The Administrator may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Administrator finds that the property or project for which the obligation will be executed will be economically sound. In making that finding, the Administrator shall consider—

(1) the need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing equipment for which a guarantee under this chapter is in effect;

(2) the market potential for employment of the vessel over the life of the guarantee;

(3) projected revenues and expenses associated with employment of the vessel;

(4) any charter, contract of affreightment, transportation agreement, or similar agreement or undertaking relevant to the employment of the vessel;

(5) other relevant criteria; and

(6) for inland waterways, the need for technical improvements, including increased fuel efficiency or improved safety.

(b) By Secretary.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds, at or prior to the time the commitment is made or the guarantee becomes effective, that—

(1) the property or project for which the obligation will be executed will be economically sound; and

(2) for a fishing vessel, the purpose of the financing or refinancing is consistent with—

(A) the wise use of the fisheries resources and the development, advancement, management, conservation, and protection of the fisheries resources; or

(B) the need for technical improvements, including increased fuel efficiency or improved safety.

(c) Used *[Fishing]*Vessels and **Fishing** Facilities.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter for the purchase of a used *[fishing]* vessel or used fishery facility unless the vessel or facility will be—

[(1) reconstructed or reconditioned in the United States and will contribute to the development of the United States fishing industry; or]

(1) in the case of a used vessel, reconstructed or reconditioned in the United States and will contribute to the development of the United States commercial shipbuilding or fishing industries; or

(2) used—

(A) in the harvesting of fish from an underused fishery; or

(B) for a purpose described in the definition of "fishery facility" in section 53701 of this title with respect to an underused fishery.

(d) Independent Analysis.—The Secretary or Administrator may make a determination that aspects of an application under this chapter require independent analysis to be conducted by third party experts due to risk factors associated with markets, technology, or financial structures. A third party independent analysis conducted under this subsection shall be performed by a private sector expert in assessing such risk factors who is selected by the Secretary or Administrator.

(e) Additional Equity Because of Increased Risks.—Notwithstanding any other provision of this chapter, the Secretary or Administrator may make a determination that an application under this title requires additional equity because of increased risk factors associated with markets, technology, or financial structures.

46 U.S.C. § 53709. Amount of obligations

(a) In General.—The principal of an obligation may not be guaranteed in an amount greater than the amount determined by multiplying the percentage applicable under subsection (b) by—

(1) the amount paid by or for the account of the obligor (as determined by the Secretary or Administrator, which determination shall be conclusive) for the construction, reconstruction, or reconditioning of the vessel used as security for the guarantee; or

(2) if the obligor creates an escrow fund under section 53715 of this title, the actual cost of the vessel.

(b) Limitations on Amount Borrowed.—

(1) In general.—Except as otherwise provided, the principal amount of an obligation guaranteed under this chapter may not exceed *[75 percent]* **87.5 percent** of the actual cost or depreciated actual cost, as determined by the Secretary or Administrator, of the vessel, **including eligible export vessels,** used as security for the guarantee*[.]***, provided that the size and speed of the vessel are approved by the Secretary or Administrator.**

[(2) Certain approved vessels.—The principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost if—]

[(A) the size and speed of the vessel are approved by the Secretary or Administrator*;]*.

[(B) the vessel is or would have been eligible for mortgage aid for construction under section 509 of the Merchant Marine Act, 1936, or would have been eligible except that the vessel was built with a construction-differential subsidy and the subsidy has been repaid; and]

[(C) the vessel is of a type described in that section for which the minimum down payment required by that section is 12.5 percent of the cost of the vessel.]

*[(3)]***(2)** Fishing vessels and fishery facilities.—For a fishing vessel or fishery facility, the principal amount may not exceed 80 percent of the actual cost or depreciated actual cost. However, debt for the vessel or facility may not be placed through the Federal Financing Bank.

*[(4)]***(3)** OTEC.—For an ocean thermal energy conversion facility or plantship constructed without a construction-differential subsidy, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost of the facility or plantship.

(c) Security Involving Multiple Vessels.—The principal amount of an obligation having more than one vessel as security for the guarantee may not exceed the sum of the principal amounts allowable for all the vessels.

(d) Prohibition on Uniform Percentage Limitations.—The Secretary or Administrator may not establish a percentage under any provision of subsection (b) that is to be applied uniformly to all guarantees or commitments to guarantee made under that provision.

(e) Prohibition on Minimum Principal Amount.—The Secretary may not establish, as a condition of eligibility for a guarantee under this chapter, a minimum principal amount for an obligation covering the reconstruction or reconditioning of a fishing vessel or fishery facility. For purposes of this chapter, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.

46 U.S.C. § 53710. Contents of obligations

(a) In General.—An obligation guaranteed under this chapter must—

(1) provide for payments by the obligor satisfactory to the Secretary or Administrator;

(2) provide for interest (exclusive of guarantee fees and other fees) at a rate not more than the annual rate on the unpaid principal that the Secretary or Administrator determines is reasonable, considering the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary or Administrator;

(3) have a maturity date satisfactory to the Secretary or Administrator, but—

(A) not more than 25 years after the date of delivery of the vessel used as security for the guarantee; or

(B) if the vessel has been reconstructed or reconditioned, not more than the later of—

(i) 25 years after the date of delivery of the vessel; or

(ii) the remaining years of useful life of the vessel as determined by the Secretary or Administrator; and

(4) provide, or a related agreement must provide, that if the vessel used as security for the guarantee is a delivered vessel, the vessel shall be—

(A) in class A–1, American Bureau of Shipping, or meet other standards acceptable to the Secretary or Administrator, with all required certificates, including marine inspection certificates of the Coast Guard **or, in the case of an eligible export vessel, of the appropriate foreign authorities under a treaty, convention, or other international agreement to which the United States is a party**, and with all outstanding requirements and recommendations necessary for class retention accomplished, unless the Secretary or Administrator permits a deferment of repairs necessary to meet these requirements;

(B) well equipped, in good repair, and in every respect seaworthy and fit for service; and

(C) documented under the laws of the United States for the term of the guarantee of the obligation or until the obligation is paid in full, whichever is sooner.

(b) Provisions for Certain Passenger Vessels.—

(1) In general.—With the Administrator's approval, if the vessel used as security for the guarantee is a passenger vessel having the tonnage, speed, passenger accommodations, and other characteristics described in section 503 of the Merchant Marine Act, 1936, an obligation guaranteed under this chapter or a related agreement may provide that—

(A) the only recourse by the United States Government against the obligor for payments under the guarantee will be repossession of the vessel and assignment of insurance claims; and

(B) the obligor's liability for payments under the guarantee will be satisfied and discharged by the surrender of the vessel and all interest in the vessel to the Government in the condition described in paragraph (2).

(2) Surrender of vessel.—

(A) In general.—On surrender, the vessel must be—

(i) free and clear of all liens and encumbrances except the security interest conveyed to the Administrator under this chapter;

(ii) in class; and

(iii) in as good order and condition (ordinary wear and tear excepted) as when acquired by the obligor.

(B) Covering deficiencies by insurance.—To the extent covered by insurance, a deficiency related to a requirement in subparagraph (A) may be satisfied by assignment of the obligor's insurance claims to the Government.

(c) Other Provisions to Protect Security Interests and Provide for the Financial Stability of the Obligor.—An obligation guaranteed under this chapter and any related agreement must contain other provisions, which shall include—

(1) provisions for the protection of the security interests of the Government (including acceleration, assumption, and subrogation provisions and the issuance of notes by the obligor to the Secretary or Administrator), liens and releases of liens, payment of taxes; and

(2) any other provisions that the Secretary or Administrator may prescribe.

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46 U.S.C. § 53714. Guarantee fees

(a) Regulations.—Subject to this section, the Secretary or Administrator shall prescribe regulations to assess a fee for guaranteeing an obligation under this chapter.

(b) Computation of Fee.—

(1) In general.—The amount of the fee for a guarantee under this chapter shall be equal to the sum of the amounts determined under paragraph (2) for the years in which the guarantee is in effect.

(2) Present value for each year.—The amount referred to in paragraph (1) for a year in which the guarantee is in effect is the present value of the amount calculated under paragraph (3). To determine the present value, the Secretary or Administrator shall apply a discount rate determined by the Secretary of the Treasury, considering current market yields on outstanding obligations of the United States Government having periods to maturity comparable to the period to maturity for the guaranteed obligation.

(3) Calculation of amount.—The amount referred to in paragraph (2) shall be calculated by multiplying—

(A) the estimated average unpaid principal amount of the obligation that will be outstanding during the year (excluding the average amount, other than interest, on deposit during the year in an escrow fund under section 53715 of this title); by

(B) the fee rate set under paragraph (4).

(4) Setting fee rates.—To set the fee rate referred to in paragraph (3)(B), the Secretary or Administrator shall establish a formula that—

(A) takes into account the security provided for the guaranteed obligation; and

(B) is a sliding scale based on the creditworthiness of the obligor, using—

(i) the lowest allowable rate under paragraph (5) for the most creditworthy obligors; and

(ii) the highest allowable rate under paragraph (5) for the least creditworthy obligors.

(5) Permissible range of rates.—The fee rate set under paragraph (4) shall be—

(A) for a delivered vessel or equipment, at least 0.5 percent and not more than 1 percent; and

(B) for a vessel to be constructed, reconstructed, or reconditioned or equipment to be delivered, at least 0.25 percent and not more than 0.5 percent.

(6) Fees in excess of the cost of a project.— For projects where the minimum percentage rate calculated under paragraph (5) exceeds the "cost" of a project required by section 53704(c) of this title and section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a) such minimum percentage rate may be reduced to not exceed the cost of the project.

(c) When Fee Collected.—A fee for the guarantee of an obligation under this chapter shall be collected not later than the date on which an amount is first paid on the obligation.

(d) Financing the Fee.—A fee paid under this section is eligible to be financed under this chapter and shall be included in the actual cost of the obligation guaranteed.

(e) Not Refundable.—A fee paid under this section is not refundable. However, an obligor shall receive credit for the amount paid for the remaining term of the obligation if the obligation is refinanced and guaranteed under this chapter after the refinancing.

46 U.S.C. § 53715. Escrow fund

(a) In General.—If the proceeds of an obligation guaranteed under this chapter are to be used to finance the construction, reconstruction, or reconditioning of a vessel that will serve as security for a guarantee under this chapter, the Secretary or Administrator may accept and hold in escrow, under an escrow agreement with the obligor, a portion of the proceeds of all obligations guaranteed under this chapter whose proceeds are to be so used which is equal to—

(1) the excess of—

(A) the principal amount of all obligations whose proceeds are to be so used; over

(B) *[75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title,]* **87.5 percent or whichever percentage is applicable under section 53709(b) of this title** of the amount paid by or for the account of the obligor for the construction, reconstruction, or reconditioning of the vessel; plus

(2) any interest the Secretary or Administrator may require on the amount described in paragraph (1).

(b) Security Involving Both Uncompleted and Delivered Vessels.—If the security for the guarantee of an obligation relates both to a vessel to be constructed, reconstructed, or reconditioned and to a delivered vessel, the principal amount of the obligation shall be prorated for purposes of subsection (a) under regulations prescribed by the Secretary or Administrator.

(c) Disbursement Before Termination of Agreement.—

(1) Purposes.—The Secretary or Administrator shall disburse amounts in the escrow fund, as specified in the escrow agreement, to—

(A) pay amounts the obligor is obligated to pay for—

(i) the construction, reconstruction, or reconditioning of a vessel used as security for the guarantee; and

(ii) interest on the obligations;

(B) redeem the obligations under a refinancing guaranteed under this chapter; and

(C) pay any excess interest deposits to the obligor at times provided for in the escrow agreement.

(2) Manner of payment.—If a payment becomes due under the guarantee before the termination of the escrow agreement, the amount in the escrow fund at the time the payment becomes due, including realized income not yet paid to the obligor, shall be paid into the appropriate account under section 53717 of this title. The amount shall be credited against amounts due or to become due from the obligor to the Secretary or Administrator on the guaranteed obligations or, to the extent not so required, be paid to the obligor.

(d) Payments Required Before Disbursement.—

(1) In general.—No disbursement shall be made under subsection (c) to any person until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, whichever is applicable under section 53709(b) of this title, of the aggregate actual cost of the vessel, as previously approved by the Secretary or Administrator. If the aggregate actual cost of the vessel has increased since the Secretary's or Administrator's initial approval or if it increases after the first disbursement is permitted under this subsection, then no further disbursements shall be made under subsection (c) until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, as applicable, of the increase, as determined by the Secretary or Administrator, in the aggregate actual cost of the vessel. This paragraph does not require the Secretary or Administrator to consent to finance any increase in actual cost unless the Secretary or Administrator determines that such an increase in the obligation meets all the terms and conditions of this chapter or other applicable law.

(2) Documented proof of progress requirement.—The Secretary or Administrator shall, by regulation, establish a transparent, independent, and risk-based process for verifying and documenting the progress of projects under construction before disbursing guaranteed loan funds. At a minimum, the process shall require documented proof of progress in connection with the construction, reconstruction, or reconditioning of a vessel or vessels before disbursements are made from the escrow fund. The Secretary or Administrator may require that the obligor provide a certificate from an independent party certifying that the requisite progress in construction, reconstruction, or reconditioning has taken place.

(e) Disbursement on Termination of Agreement.—

(1) In general.—If a payment has not become due under the guarantee before the termination of the escrow agreement, the balance of the escrow fund at the time of termination shall be disbursed to—

(A) prepay the excess of—

(i) the principal amount of all obligations whose proceeds are to be used to finance the construction, reconstruction, or reconditioning of the vessel used or to be used as security for the guarantee; over

(ii) *[75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title,]* **87.5 percent or whichever percentage is applicable under section 53709(b) of this title** of the actual cost of the vessel to the extent paid; and

(B) pay interest on that prepaid amount of principal.

(2) Remaining balance.—Any remaining balance of the escrow fund shall be paid to the obligor.

(f) Investment.—The Secretary or Administrator may invest and reinvest any part of an escrow fund in obligations of the United States Government with maturities such that the escrow fund will be available as required for purposes of the escrow agreement. Investment income shall be paid to the obligor when received.

(g) Terms To Protect Government.—The escrow agreement shall contain other terms the Secretary or Administrator considers necessary to protect fully the interests of the Government.

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46 U.S.C. § 53723. Payments by Secretary or Administrator and issuance of obligations

(a) Cash Payment.—Amounts required to be paid by the Secretary or Administrator under section 53721 or 53722 of this title *[shall be paid in cash.]***shall be —**

(1) paid in cash; and

(2) include any applicable principal, interest, capitalized interest, premium, and late charges, if the obligation is held by the Federal Financing Bank.

(b) Subrogation. – If the Secretary or the Administrator makes a payment under this section, the Secretary or the Administrator shall be subrogated to the rights of the recipient of the payment as specified in the guarantee or related agreements.

[(b)] **(c)** Issuance of Obligations.—If amounts in the appropriate account under section 53717 of this title are not sufficient to make a payment required under section 53721 or 53722 of this title, the Secretary or Administrator may issue obligations to the Secretary of the Treasury. The Secretary or Administrator, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations,

considering the current average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

[(c)] **(d)** Purchase of Obligations.—The Secretary of the Treasury shall purchase the obligations issued under this section. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. The Secretary of the Treasury may sell obligations purchased under this section. A redemption, purchase, or sale of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

[(d)] **(e)** Deposits and Redemptions.—The Secretary or Administrator shall deposit amounts borrowed under this section in the appropriate account under section 53717 of this title and make redemptions of the obligations from that account.

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46 U.S.C. § 53732. Eligible export vessels

(a) Applicable Terms.—The Administrator may guarantee an obligation for an eligible export vessel in accordance with—

(1) the terms applicable under this chapter for vessels documented under the laws of the United States; or

(2) other terms the Administrator determines are more favorable than those terms and compatible with export credit terms offered by foreign governments for the sale of vessels built in foreign shipyards.

(b) Interagency Council.—

(1) Establishment.—There is an interagency council to carry out this section.

(2) Composition.—The council is composed of the following individuals or their designees:

(A) The Administrator, who is the chairman of the council.

(B) The Secretary of the Treasury.

(C) The Secretary of State.

(D) The Assistant to the President for Economic Policy.

(E) The United States Trade Representative.

(F) The President and Chairman of the Export-Import Bank of the United States.

(3) Functions.—The council shall—

(A) obtain information on shipbuilding loan guarantees, direct and indirect subsidies, and other favorable treatment of shipyards provided by foreign governments to shipyards in competition with United States shipyards;

(B) consult regularly with United States shipbuilders to obtain the essential information about international shipbuilding competition on which to set terms for loan guarantees under subsection (a)(2); and

(C) provide guidance to the Administrator in establishing terms for loan guarantees under subsection (a)(2).

(c) Required Findings.—

(1) Benefit to shipbuilding industry.—The Administrator may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the Administrator finds that the construction, reconstruction, or reconditioning of the vessel will contribute to the development of United States commercial shipbuilding or will preserve shipbuilding assets that would be essential in time of war or national emergency.

(2) Priority of documented vessels.—The Administrator may not make a commitment to guarantee an obligation for an eligible export vessel unless the Administrator determines that making the commitment will not result in denial of an economically sound application for a commitment to guarantee an obligation for a vessel documented under the laws of the United States and operating in the domestic or foreign commerce of the United States. The Administrator has sole discretion in making the determination. In making the determination, the Administrator shall consider—

(A) the status and economic soundness of pending applications for commitments to guarantee obligations for vessels documented under the laws of the United States that are operating or will be operating in the domestic or foreign commerce of the United States; and

(B) the amount of guarantee authority available.

(d) Restriction on Transfer of Vessel.—The Administrator may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the owner of the vessel agrees with the Administrator that the vessel will not be transferred to a country designated by the Secretary of War as a country whose interests are hostile to the interests of the United States.

(e) Review by Secretary of War.—

(1) Notification.—The Administrator shall promptly notify the Secretary of War of the receipt of an application for a loan guarantee for an eligible export vessel.

(2) Disapproval.—The Secretary of War, within 30 days after receiving the notice, may disapprove the guarantee based on an assessment of the potential use of the vessel in a manner that may harm the national security interests of the United States. The Secretary of War may not disapprove a guarantee solely because of the type of vessel to be constructed.

(3) Delegation.—The authority of the Secretary of War to disapprove a guarantee under this subsection may be delegated only to a civilian officer of the Department of War appointed by the President by and with the advice and consent of the Senate.

(4) Prohibition.—The Administrator may not make a loan guarantee disapproved by the Secretary of War under this subsection.

(f) Expiration of Authority.—The Administrator may not issue a commitment to guarantee an obligation for an eligible export vessel under this chapter after the last date on which such a commitment may be issued under any treaty or convention entered into after November 30, 1993, that prohibits guarantee of such an obligation.

46 U.S.C. § 53733. Shipyard modernization and improvement

[(a) Definitions.—In this section:

(1) Advanced shipbuilding technology.—The term "advanced shipbuilding technology" includes—

(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving shipbuilding and related industrial production that advance the state-of-the-art; and

(B) novel techniques and processes designed to improve shipbuilding quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

(2) General shipyard facility.—The term "general shipyard facility" means—

(A) for operations on land—

(i) a structure or appurtenance thereto designed for the construction, reconstruction, repair, rehabilitation, or refurbishment of a vessel, including a graving dock, building way, ship lift, wharf, or pier crane;

(ii) the land necessary for the structure or appurtenance; and

(iii) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (i); and

(B) for operations not on land, a vessel, floating drydock, or barge built in the United States and used for, equipped to be used for, or of a type normally used for, performing a function referred to in subparagraph (A)(i).

(3) Modern shipbuilding technology.—The term "modern shipbuilding technology" means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of shipyards.]

[(b)] **(a)** General Authority.—Under subchapter I of this chapter, the Administrator may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation for *[advanced shipbuilding technology and modern shipbuilding technology]* **shipyard capital improvements, including infrastructure and modern shipbuilding technology,** of a general shipyard facility in the United States. *[Only a private shipyard is eligible to receive a guarantee]***To be eligible to receive a guarantee the obligor must have the authority to modify the general shipyard facility**.

[(c)] **(b)** Applicability of Other Provisions.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

[(d)] **(c)** Amount of Obligation.—The principal amount of an obligation guaranteed under this chapter may not exceed 87.5 percent of the actual cost of the *[advanced shipbuilding technology]* **shipyard capital improvements, infrastructure,** or modern shipbuilding technology.

[(e)] **(d)** Transfer of Amounts.—The Administrator may accept the transfer of amounts from a department, agency, or instrumentality of the United States Government and may use those amounts to cover the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of making guarantees or commitments to guarantee under this section.

[(f)] [Buy America.—Part I of subtitle A of title IX of division G of the Infrastructure Investment and Jobs Act (Public Law 117–58; 41 U.S.C. 8301 note) shall apply to any funds obligated by the Administrator under this section]

(e) Made in America—The Administrator must exclude foreign components from a project eligible for a guarantee under this section, unless the Administrator grants a waiver based on non-availability of such foreign components due to lack of timely availability, sufficient quality, or price competitive basis.

46 U.S.C. § 53734. Replacement of vessels because of changes in operating standards

(a) General Authority.—Notwithstanding any other provision of this chapter, the Secretary or Administrator, on terms the Secretary or Administrator may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing or refinancing (including reimbursement of an obligor for expenditures previously made for) a contract for the construction or reconstruction of a vessel if—

(1) the vessel is designed and to be used for commercial use in coastwise, intercoastal, or foreign trade;

(2) the construction or reconstruction is necessary to replace a vessel that cannot continue to be operated because of a change required by law in the standards for the operation of vessels, and the applicant for the guarantee or commitment would not otherwise legally be able to continue operating vessels in the trades in which the applicant operated vessels before the change;

(3) the applicant is presently engaged in transporting cargoes in vessels of the type and class that will be constructed or reconstructed under this section and agrees to employ vessels constructed or reconstructed under this section as replacements only for vessels made obsolete by the change in operating standards;

(4) the capacity of the vessels to be constructed or reconstructed under this section will not increase the cargo carrying capacity of the vessels being replaced;

(5) the Secretary or Administrator has not determined that the market demand for the vessel over its useful life will diminish so as to make granting the guarantee fiduciarily imprudent;

(6) the vessel, if to be reconstructed, will have a useful life of at least 15 years after the reconstruction; and

(7) the Secretary or Administrator has considered the criteria specified in section 53708(a)(3)–(5) of this title.

(b) Term and Amount of Obligation.—

(1) Term.—The term of an obligation guaranteed under this section may not exceed 25 years.

(2) Amount.—The amount of an obligation guaranteed under this section may not exceed 87.5 percent of the actual cost or depreciated actual cost to the applicant for the *[construction or reconstruction]* **construction, or refinancing and reconstruction,** of the vessel. The Secretary or Administrator may not establish a percentage under this paragraph that is to be applied uniformly to all guarantees or commitments to guarantee made under this section.

(c) Applicability of Other Provisions.—A guarantee or commitment to guarantee under this section is also subject to sections 53701, 53702(a), 53704, 53705, 53707(a), 53708(d) and (e), 53709(a), 53710(a)(1), (2), and (4) and (c), 53711(a), 53713, 53714, 53717, and 53721–53725 of this title.

(d) Security Against Default.—The Secretary or Administrator shall require by regulation that an applicant under this section provide adequate security against default.

(e) Guarantee Fees.—The Secretary or Administrator may establish a fee for the guarantee of an obligation under this section that is in addition to the fee established under section 53714 of this title. The fee may be—

(1) an annual fee of not more than an additional 1 percent added to the fee established under section 53714 of this title; or

(2) a fee based on the amount of the obligation versus the percentage of the obligor's fleet being replaced by vessels constructed or reconstructed under this section.

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SEC. ___. DESIGNATION OF CENTERS OF EXCELLENCE FOR DOMESTIC MARITIME WORKFORCE TRAINING AND EDUCATION.

Section 51706(c) of title 46, United States Code, is amended—

(1) in paragraph (1)(A)—

(i) by adding "or territory of the United States" after "State"; and

(ii) in clause (i), by deleting "Gulf of Mexico" and inserting "Gulf of America";

(2) in paragraph (1)(B)—

(i) in clause (iii), by inserting "or" at the end; and

(ii) in clause (iv), by deleting "or" and everything through the end of clause (v);

(3) by deleting paragraph (2); and

(4) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5) respectively.

Analysis:

This proposal would amend the types of entities that are eligible for designation as a Center of Excellence (COE) for Domestic Maritime Workforce Training and Education under 46 U.S.C. § 51706. Specifically, it would delete a provision added to the statute by the FY23 National Defense Authorization Act (NDAA), Pub. Law No. 117-263, that allows COEs designated in 2021 to be eligible for all future designations and grant funding.

Section 3532 of the FY23 NDAA made several changes to 46 U.S.C. § 51706, including authorizing the Secretary of Transportation to award maritime career training grants to designated COEs and changing the definition of a "covered training entity." Prior to enactment of the FY23 NDAA, a "covered training entity" was defined as a community or technical college or a maritime training center operated by or under the supervision of a State. As amended by the FY 23 NDAA, a "covered training entity" is now defined as including a postsecondary educational or vocational institution, a nonprofit entity that offers maritime training programs, an entity sponsoring apprenticeship programs, or "a maritime training center designated prior to the date of enactment of the National Defense Authorization Act for Fiscal Year 2023."

At issue is the inclusion of maritime training centers designated prior to the enactment of the FY23 NDAA. This provision allows any COE designated prior to the enactment of the FY23 NDAA to continue to be considered a "covered training entity" for purposes of future COE designations and eligibility for grant funds. The effect would be to treat COEs designated prior to enactment of the FY23 NDAA differently from all other COEs being considered for designation (and grant funding) in the future. For example, there are COEs designated prior to the enactment

of the FY23 NDAA that are not eligible under any of the other "covered training entity" categories. These entities continue to be eligible for designation indefinitely, while similarly situated entities – those that are not a postsecondary educational or vocational institution, a nonprofit entity offering maritime training, or an entity sponsoring an apprenticeship program – would not be eligible. For clarity and fairness purposes, MARAD believes all COE applicants should be subject to the same eligibility criteria.

Finally, this proposal amends subsection (c) of 46 U.S.C. § 51706 to delete the definition of "Arctic." To be eligible for a COE designation, a covered training entity must be located in a State that borders certain bodies of water. Those bodies of water are listed in the statute. The FY23 NDAA amended this list to delete a reference to the "Arctic." The current statute, however, still retains a definition of "Arctic." Since the Arctic is no longer referenced in the statute, the definition is not needed. The proposal also updates a reference to the "Gulf of Mexico" to refer to the "Gulf of America."

Comparative Type:
(Italicized, bracketed language is to be deleted; bold, underlined language is to be added.)

§51706. Centers of excellence for domestic maritime workforce training and education

(a) Designation.—

(1) In General.—The Secretary of Transportation, after consultation with the Coast Guard, may designate, for a 5-year period, as a center of excellence for domestic maritime workforce training and education an entity which is a covered training entity.

(2) Withdrawal of Designation.—The Secretary of Transportation may withdraw a designation as a center of excellence for domestic maritime workforce training and education of a covered training entity upon discovery of adverse information, including discovery of information that the covered training entity has engaged in fraudulent or unlawful activities, or has been subjected to disciplinary or adverse administrative action by Federal, State, or other regulatory bodies.

(b) Grant Program.—

(1) In general.—The Secretary may award a maritime career training grant to a center of excellence designated under subsection (a) for the purpose of developing, offering, or improving career and technical education or training programs related to the United States maritime industry for United States workers.

(2) Grant proposal.—To be eligible to receive a grant under this subsection, a center of excellence designated under subsection (a) shall submit to the Secretary a grant proposal that includes a detailed description of-

(A) the specific project proposed to be funded by the grant, including a description of the manner in which the grant will be used to develop, offer, or improve a career and

technical education or training program that is suited to United States maritime industry workers;

(B) the extent to which the project for which the grant proposal is submitted will meet the educational or career training needs of United States maritime industry workers;

(C) any previous experience of the center of excellence in providing United States maritime industry career and technical education or training programs;

(D) how the project proposed to be funded by the grant would address shortcomings in existing educational or career training opportunities available to United States maritime industry workers; and

(E) the extent to which employers, including small and medium-sized firms, have demonstrated a commitment to employing United States maritime industry workers who would benefit from the project for which the grant proposal is submitted.

(3) Criteria for award of grants.—Subject to the appropriation of funds to carry out this section, the Secretary shall award grants under this subsection to centers of excellence based on-

(A) a determination of the merits of a grant proposal submitted under paragraph (2) to develop, offer, or improve career and technical education or training programs to be made available to United States maritime industry workers;

(B) an evaluation of the likely employment opportunities available to United States maritime industry workers who complete a maritime career and technical education or training program that a center proposes to develop, offer, or improve; and

(C) an evaluation of prior demand for training programs by workers served by centers of excellence designated under subsection (a), as well as the availability and capacity of existing maritime training programs to meet future demand for training programs.

(4) Competitive awards.—

(A) In general.—The Secretary shall award grants under this subsection to centers of excellence designated under subsection (a) on a competitive basis.

(B) Timing of grant notice.—The Secretary shall post a Notice of Funding Opportunity regarding grants awarded under this subsection not more than 90 days after the date of the enactment of the appropriations Act for the fiscal year concerned.

(C) Timing of grants.—The Secretary shall award grants under this subsection not later than 270 days after the date of the enactment of the appropriations Act for the fiscal year concerned.

(D) Reuse of unexpended grant funds.—Notwithstanding subparagraph (C), amounts awarded as a grant under this subsection that are not expended by the grantee shall remain available to the Secretary for use for grants under this subsection.

(E) Administrative costs.—Not more than 3 percent of amounts made available to carry out this subsection may be used for the necessary costs of grant administration.

(F) Prohibited use.—A center of excellence designated under subsection (a) that has received funds awarded under section 54101(a)(2) for training purposes for a fiscal year shall not be eligible for grants under this subsection during the same fiscal year.

(5) Eligible uses of grant funds.—A center of excellence receiving a grant under this subsection shall—

(A) carry out activities that are identified as priorities for the purpose of developing, offering, improving educational or career training programs for the United States maritime workforce; and

(B) provide training to upgrade the skills of the United States maritime industry workforce, including training to acquire covered requirements as well as technical skills training for jobs in the United States maritime industry.

(c) Definitions.—In this section,

(1) Covered training entity.—The term "covered training entity" means an entity that-

(A) is located in a State **or territory of the United States** that borders on the—

(i) *[Gulf of Mexico]* **Gulf of America**;

(ii) Atlantic Ocean;

(iii) Long Island Sound;

(iv) Pacific Ocean;

(v) Great Lakes; or

(vi) Mississippi River System;

(B) is—

(i) a postsecondary educational institution (as such term is defined in section 3(39) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302));

(ii) a postsecondary vocational institution (as such term is defined in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c));

(iii) a public or private nonprofit entity that offers one or more other structured experiential learning training programs for United States workers in the United States maritime industry, including a program that is offered by a labor organization or conducted in partnership with a nonprofit organization or one or more employers in the United States maritime industry; **or**

(iv) an entity sponsoring an apprenticeship program registered with the Office of Apprenticeship of the Employment and Training Administration of the Department of Labor or a State apprenticeship agency recognized by the Office of Apprenticeship pursuant to the Act of August 16, 1937 (commonly known as the 'National Apprenticeship Act'; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); *[or*

(v) a maritime training center designated prior to the date of enactment of the National Defense Authorization Act for Fiscal Year 2023;]

(C) has a demonstrated record of success in maritime workforce training and education; and

(D) has—

(i) not been subject to a disciplinary or adverse administrative action by Federal, State, or other regulatory bodies;

(ii) no unresolved nonconformities from administrative audits by regulatory bodies; and

(iii) not been subject to any adverse criminal action by a Federal, State, or local law enforcement authority.

[(2) Arctic.—The term "Arctic" has the meaning that term has under section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).]

*[(3)]***(2)** Career and technical education.—The term "career and technical education" has the meaning given such term in section 3(5) of the Carl D. Perkins Career and Technical Education Act (20 U.S.C. 2302).

*[(4)]***(3)** Secretary.—The term "Secretary" means the Secretary of Transportation.

*[(5)]***(4)** Training program.—The term "training program" means a program that provides training services, as described in section 134(c)(3)(D) of the Workforce Innovation and Opportunity Act (Public Law 113–128; 29 U.S.C. 3174).

*[(6)]***(5)** United states maritime industry.—The term "United States maritime industry" means the design, construction, repair, operation, manning, and supply of vessels in all segments of the maritime transportation system of the United States, including-

(A) the domestic and foreign trade;

(B) the coastal, offshore, and inland trade;

(C) non-commercial maritime activities, including-

(i) recreational boating; and

(ii) oceanographic and limnological research as described in section 2101(24).

SEC. ___. GROSS INCOME EXCLUSION OF MERCHANT MARINER FOREIGN EARNED INCOME.

(a) Merchant Mariner Foreign Earned Income.—Section 911(d) of title 26, United States Code, is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following:—

"(9) Application to merchant mariner crews.—In applying this section to an individual who is a citizen or resident of the United States and who is employed for a minimum of 90 days during a taxable year as a civilian member of the crew of a vessel or vessels owned, operated, or chartered by a United States person or the United States or its agency thereof—

"(A) the individual shall be treated as a qualified individual with respect to subsection (a)(1) and without regard to the requirements of paragraph (1) of this subsection; and

"(B) any earned income attributable to services performed by that individual so employed on such a vessel while it is operating outside the United States, including services performed in international waters and services performed in a foreign country or a territory or possession of the United States related to employment on the vessel, shall be treated, except as provided by subsection (b)(1)(B), as foreign earned income.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after the date of enactment of this Act.

Analysis:

This proposal would amend the Internal Revenue Code by extending the foreign earned income exclusion under 26 U.S.C. § 911 to include income earned by civilian merchant mariners employed for a minimum of 90 days during a taxable year as a member of the crew of a vessel (or vessels) owned, operated, or charted by a U.S. person or the United States or its agency thereof. To qualify, the earned income must be attributable to services performed by a civilian individual employed on such a vessel while the vessel is operating outside the United States. It would include income earned for services performed in international waters and in U.S. possessions and territories, and for related landside services performed in a foreign country. Civilian merchant mariners who are employed on vessels operating internationally are often away from their homes for months at a time. The proposed tax incentive would help mariner recruitment and retention. This in turn would help ensure the availability of a sufficient pool of mariners who are qualified to crew large, oceangoing vessels. During times of war, contingency events, or national emergencies, the U.S. Merchant Marine is responsible for ensuring the continuous flow of goods to the U.S. Department of War and the American economy. A sufficient supply of highly trained and readily available civilian merchant mariners is critical to both national and economic security. These mariners are needed to safely operate U.S.-owned vessels, including vessels owned by the United States and its agency thereof, during surge operations and maintain commercial trading to meet economic needs.

This proposal would decrease revenues, and the estimated effect on the deficit is:

Fiscal Years
(dollars in millions)

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Revenues	$0	$-86	$-89	$-92	$-95	$-98	$-101	$-104	$-108	$-111	$-115	$-1,000
Net Deficit Impact	$0	$86	$89	$92	$95	$98	$101	$104	$108	$111	$115	$1,000

Section-by-Section Summary

Subsection (a):

- Amends 26 U.S.C. § 911(d) to establish that foreign earned income for civilian merchant mariners working on internationally-trading U.S.-flagged vessels or Federal Government vessels operating internationally is excluded from their taxable income, if they are employed for a minimum of 90 days during the calendar year on a qualifying vessel.

Subsection (b):

- Establishes that the changes made by this proposal apply to taxable years ending after the date of enactment of this Act.

Comparative Type:
(Italicized, bracketed language is to be deleted; bold, underlined language is to be added.)

26 U.S.C. §911. Citizens or residents of the United States living abroad

(a) Exclusion from gross income

At the election of a qualified individual (made separately with respect to paragraphs (1) and (2)), there shall be excluded from the gross income of such individual, and exempt from taxation under this subtitle, for any taxable year-

(1) the foreign earned income of such individual, and

(2) the housing cost amount of such individual.

(b) Foreign earned income

(1) Definition

For purposes of this section-

(A) In general

The term "foreign earned income" with respect to any individual means the amount received by such individual from sources within a foreign country or countries which constitute earned income attributable to services performed by such individual during the period described in subparagraph (A) or (B) of subsection (d)(1), whichever is applicable.

(B) Certain amounts not included in foreign earned income
The foreign earned income for an individual shall not include amounts-

(i) received as a pension or annuity,

(ii) paid by the United States or an agency thereof to an employee of the United States or an agency thereof,

(iii) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of nonexempt trust) or section 403(c) (relating to taxability of beneficiary under a nonqualified annuity), or

(iv) received after the close of the taxable year following the taxable year in which the services to which the amounts are attributable are performed.

(2) Limitation on foreign earned income

(A) In general

The foreign earned income of an individual which may be excluded under subsection (a)(1) for any taxable year shall not exceed the amount of foreign earned income computed on a daily basis at an annual rate equal to the exclusion amount for the calendar year in which such taxable year begins.

(B) Attribution to year in which services are performed
For purposes of applying subparagraph (A), amounts received shall be considered received in the taxable year in which the services to which the amounts are attributable are performed.

(C) Treatment of community income
In applying subparagraph (A) with respect to amounts received from services performed by a husband or wife which are community income under community property laws applicable to such income, the aggregate amount which may be excludable from the gross income of such husband and wife under subsection (a)(1) for any taxable year shall equal the amount which would be so excludable if such amounts did not constitute community income.

(D) Exclusion amount

(i) In general
The exclusion amount for any calendar year is $80,000.

(ii) Inflation adjustment
In the case of any taxable year beginning in a calendar year after 2005, the $80,000 amount in clause (i) shall be increased by an amount equal to the product of-

(I) such dollar amount, and

(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "2004" for "2016" in subparagraph (A)(ii) thereof.

If any increase determined under the preceding sentence is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100.

***

(c) Housing cost amount

For purposes of this section-

(1) In general
The term "housing cost amount" means an amount equal to the excess of-

(A) the housing expenses of an individual for the taxable year to the extent such expenses do not exceed the amount determined under paragraph (2), over

(B) an amount equal to the product of-

(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by

(ii) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).

(2) Limitation

(A) In general
The amount determined under this paragraph is an amount equal to the product of-

(i) 30 percent (adjusted as may be provided under subparagraph (B)) of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

(ii) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).

(B) Regulations

The Secretary may issue regulations or other guidance providing for the adjustment of the percentage under subparagraph (A)(i) on the basis of geographic differences in housing costs relative to housing costs in the United States.

(3) Housing expenses

(A) In general

The term "housing expenses" means the reasonable expenses paid or incurred during the taxable year by or on behalf of an individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. The term-

(i) includes expenses attributable to the housing (such as utilities and insurance), but

(ii) does not include interest and taxes of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

Housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

(B) Second foreign household

(i) In general

Except as provided in clause (ii), only housing expenses incurred with respect to that abode which bears the closest relationship to the tax home of the individual shall be taken into account under paragraph (1).

(ii) Separate household for spouse and dependents

If an individual maintains a separate abode outside the United States for his spouse and dependents and they do not reside with him because of living conditions which are dangerous, unhealthful, or otherwise adverse, then-

(I) the words "if they reside with him" in subparagraph (A) shall be disregarded, and

(II) the housing expenses incurred with respect to such abode shall be taken into account under paragraph (1).

(4) Special rules where housing expenses not provided by employer

(A) In general

To the extent the housing cost amount of any individual for any taxable year is not attributable to employer provided amounts, such amount shall be treated as a deduction allowable in computing adjusted gross income to the extent of the limitation of subparagraph (B).

(B) Limitation
For purposes of subparagraph (A), the limitation of this subparagraph is the excess of-

(i) the foreign earned income of the individual for the taxable year, over

(ii) the amount of such income excluded from gross income under subsection (a) for the taxable year.

(C) 1-year carryover of housing amounts not allowed by reason of subparagraph (B)

(i) In general
The amount not allowable as a deduction for any taxable year under subparagraph (A) by reason of the limitation of subparagraph (B) shall be treated as a deduction allowable in computing adjusted gross income for the succeeding taxable year (and only for the succeeding taxable year) to the extent of the limitation of clause (ii) for such succeeding taxable year.

(ii) Limitation
For purposes of clause (i), the limitation of this clause for any taxable year is the excess of-

(I) the limitation of subparagraph (B) for such taxable year, over

(II) amounts treated as a deduction under subparagraph (A) for such taxable year.

(D) Employer provided amounts
For purposes of this paragraph, the term "employer provided amounts" means any amount paid or incurred on behalf of the individual by the individual's employer which is foreign earned income included in the individual's gross income for the taxable year (without regard to this section).

(E) Foreign earned income
For purposes of this paragraph, an individual's foreign earned income for any taxable year shall be determined without regard to the limitation of subparagraph (A) of subsection (b)(2).

(d) Definitions and special rules
For purposes of this section-

(1) Qualified individual
The term "qualified individual" means an individual whose tax home is in a foreign country and who is-

(A) a citizen of the United States and establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

(B) a citizen or resident of the United States and who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days in such period.

(2) Earned income

(A) In general

The term "earned income" means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

(B) Taxpayer engaged in trade or business

In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income.

(3) Tax home

The term "tax home" means, with respect to any individual, such individual's home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States, unless such individual is serving in an area designated by the President of the United States by Executive order as a combat zone for purposes of section 112 in support of the Armed Forces of the United States.

(4) Waiver of period of stay in foreign country

Notwithstanding paragraph (1), an individual who-

(A) is a bona fide resident of, or is present in, a foreign country for any period,

(B) leaves such foreign country after August 31, 1978-

(i) during any period during which the Secretary determines, after consultation with the Secretary of State or his delegate, that individuals were required to leave such foreign country because of war, civil unrest, or similar adverse conditions in such foreign country which precluded the normal conduct of business by such individuals, and

(ii) before meeting the requirements of such paragraph (1), and

(C) establishes to the satisfaction of the Secretary that such individual could reasonably have been expected to have met such requirements but for the conditions referred to in clause (i) of subparagraph (B), shall be treated as a qualified individual with respect to the period described in subparagraph (A) during which he was a bona fide resident of, or was present in, the foreign country, and in applying subsections (b)(2)(A), (c)(1)(B)(ii), and (c)(2)(A)(ii) with respect to such individual, only the days within such period shall be taken into account.

(5) Test of bona fide residence

If-

(A) an individual who has earned income from sources within a foreign country submits a statement to the authorities of that country that he is not a resident of that country, and

(B) such individual is held not subject as a resident of that country to the income tax of that country by its authorities with respect to such earnings, then such individual shall not be considered a bona fide resident of that country for purposes of paragraph (1)(A).

(6) Denial of double benefits

No deduction or exclusion from gross income under this subtitle or credit against the tax imposed by this chapter (including any credit or deduction for the amount of taxes paid or accrued to a foreign country or possession of the United States) shall be allowed to the extent such deduction, exclusion, or credit is properly allocable to or chargeable against amounts excluded from gross income under subsection (a).

(7) Aggregate benefit cannot exceed foreign earned income

The sum of the amount excluded under subsection (a) and the amount deducted under subsection (c)(4)(A) for the taxable year shall not exceed the individual's foreign earned income for such year.

(8) Limitation on income earned in restricted country

(A) In general

If travel (or any transaction in connection with such travel) with respect to any foreign country is subject to the regulations described in subparagraph (B) during any period-

(i) the term "foreign earned income" shall not include any income from sources within such country attributable to services performed during such period,

(ii) the term "housing expenses" shall not include any expenses allocable to such period for housing in such country or for housing of the spouse or dependents of the taxpayer in another country while the taxpayer is present in such country, and

(iii) an individual shall not be treated as a bona fide resident of, or as present in, a foreign country for any day during which such individual was present in such country during such period.

(B) Regulations

For purposes of this paragraph, regulations are described in this subparagraph if such regulations-

(i) have been adopted pursuant to the Trading With the Enemy Act (50 U.S.C. 4301 et seq.) or the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), and

(ii) include provisions generally prohibiting citizens and residents of the United States from engaging in transactions related to travel to, from, or within a foreign country.

(C) Exception

Subparagraph (A) shall not apply to any individual during any period in which such individual's activities are not in violation of the regulations described in subparagraph (B).

(9) Application to merchant mariner crews.—In applying this section to an individual who is a citizen or resident of the United States and who is employed for a minimum of 90 days during a taxable year as a civilian member of the crew of a vessel or vessels owned, operated, or chartered by a United States person or the United States or its agency thereof—

(A) the individual shall be treated as a qualified individual without regard to the requirements of paragraph (1); and

(B) any earned income attributable to services performed by that individual so employed on such a vessel while it is operating outside the United States, including earned income for services performed in international waters and landside services performed in a foreign country and possessions or territories of the United States related to employment on the vessel, shall be treated, except as provided by subsection (b)(1)(B), as foreign earned income regardless of where payments of such income are made.

*[(9)]***(10)** Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules-

(A) for cases where a husband and wife each have earned income from sources outside the United States, and

(B) for married individuals filing separate returns.

(e) Election

(1) In general

An election under subsection (a) shall apply to the taxable year for which made and to all subsequent taxable years unless revoked under paragraph (2).

(2) Revocation

A taxpayer may revoke an election made under paragraph (1) for any taxable year after the taxable year for which such election was made. Except with the consent of the Secretary, any taxpayer who makes such a revocation for any taxable year may not make another election under this section for any subsequent taxable year before the 6th taxable year after the taxable year for which such revocation was made.

(f) Determination of tax liability

(1) In general

If, for any taxable year, any amount is excluded from gross income of a taxpayer under subsection (a), then, notwithstanding sections 1 and 55-

(A) if such taxpayer has taxable income for such taxable year, the tax imposed by section 1 for such taxable year shall be equal to the excess (if any) of-

(i) the tax which would be imposed by section 1 for such taxable year if the taxpayer's taxable income were increased by the amount excluded under subsection (a) for such taxable year, over

(ii) the tax which would be imposed by section 1 for such taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for such taxable year, and

(B) if such taxpayer has a taxable excess (as defined in section 55(b)(1)(B)) for such taxable year, the amount determined under the first sentence of section 55(b)(1)(A) for such taxable year shall be equal to the excess (if any) of-

(i) the amount which would be determined under such sentence for such taxable year (subject to the limitation of section 55(b)(3)) if the taxpayer's taxable excess (as so defined) were increased by the amount excluded under subsection (a) for such taxable year, over

(ii) the amount which would be determined under such sentence for such taxable year if the taxpayer's taxable excess (as so defined) were equal to the amount excluded under subsection (a) for such taxable year.

For purposes of this paragraph, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.

(2) Special rules

(A) Regular tax

In applying section 1(h) for purposes of determining the tax under paragraph (1)(A)(i) for any taxable year in which, without regard to this subsection, the taxpayer's net capital gain exceeds taxable income (hereafter in this subparagraph referred to as the capital gain excess)-

(i) the taxpayer's net capital gain (determined without regard to section 1(h)(11)) shall be reduced (but not below zero) by such capital gain excess,

(ii) the taxpayer's qualified dividend income shall be reduced by so much of such capital gain excess as exceeds the taxpayer's net capital gain (determined without regard to section 1(h)(11) and the reduction under clause (i)), and

(iii) adjusted net capital gain, unrecaptured section 1250 gain, and 28-percent rate gain shall each be determined after increasing the amount described in section 1(h)(4)(B) by such capital gain excess.

(B) Alternative minimum tax

In applying section 55(b)(3) for purposes of determining the tax under paragraph (1)(B)(i) for any taxable year in which, without regard to this subsection, the taxpayer's net capital gain exceeds the taxable excess (as defined in section 55(b)(1)(B))-

(i) the rules of subparagraph (A) shall apply, except that such subparagraph shall be applied by substituting "the taxable excess (as defined in section 55(b)(1)(B))" for "taxable income", and

(ii) the reference in section 55(b)(3)(B) to the excess described in section 1(h)(1)(B), and the reference in section 55(b)(3)(C)(ii) to the excess described in section 1(h)(1)(C)(ii), shall each be treated as a reference to each such excess as determined under the rules of subparagraph (A) for purposes of determining the tax under paragraph (1)(A)(i).

(C) Definitions

Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h), except that in applying

subparagraph (B) the adjustments under part VI of subchapter A shall be taken into account.

(g) Cross references

For administrative and penal provisions relating to the exclusions provided for in this section, see sections 6001, 6011, 6012(c), and the other provisions of subtitle F.

SEC. ___. CIVILIAN MARINER EDUCATION AND DEVELOPMENT PAYMENTS.

(a) Mariner Education and Development Payments.—Chapter 515 of title 46, United States Code, is amended by adding at the end the following new section:

"Sec. 51512. Mariner education development payments

"(a) In General.—If a State maritime academy has an agreement with the Secretary of Transportation under section 51505 of this title, the Secretary may make an agreement with a student at the academy who is a citizen of the United States to make mariner education development payments to the State Maritime Academy on behalf of the individual.

"(b) Payments.—

"(1) In general.—Payments under an agreement under this section shall be—

"(A) based on the in-state annual cost of in-state tuition, on-campus room and board, fees, books, and uniforms at the State maritime academy the individual is attending;

"(B) paid in amounts as determined by the Secretary;

"(C) paid in such installments as the Secretary shall determine while the individual is attending the academy; and

"(D) allocated among the State maritime academies as prescribed by the Secretary.

"(2) Authorized uses.—The payments shall be used for the cost of tuition, room and board, fees, books, and uniforms at the academy.

"(c) Agreement Requirements.—An agreement under this section—

"(1) may provide for payments for the cost of tuition, room and board, fees, books, and uniforms for not more than 4 academic years; and

"(2) shall require the individual to—

"(A) complete the course of instruction at the academy the individual is attending within 6 years of the date of enrollment;

"(B) obtain a merchant mariner credential, without limitation as to tonnage or horsepower, from the Coast Guard as an officer in the merchant marine of the United States, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages, without limitation, within 3 months of completion of the course of instruction at the academy the individual is attending;

"(C) for at least 6 years after graduation from the academy, maintain—

"(i) a valid merchant mariner credential, unlimited as to horsepower or tonnage, issued by the Coast Guard as an officer in the merchant marine of the United States, accompanied by the appropriate national and international endorsements and certifications required by the Coast Guard for service aboard vessels on domestic and international voyages, without limitation;

"(ii) a valid transportation worker identification credential; and

"(iii) a Coast Guard medical certificate;

"(D) apply for, and accept if tendered, a position commensurate with the obtained merchant mariner credential, for a period of not less than 1 year but not more than 5 years, as determined by the Secretary of Transportation based on the amount of payments provided under this section, as–

"(i) a civil service mariner aboard a vessel owned and operated by the Military Sealift Command, National Oceanic and Atmospheric Administration, United States Coast Guard, United States Army Corps of Engineers, or other Federal agency;

"(ii) a merchant marine officer aboard a Federal vessel owned by the Military Sealift Command or the Maritime Administration, if the Secretary determines that employment under clause (i) is not available to the individual;

"(iii) a merchant marine officer on a vessel owned and operated by the United States Federal Government or by a State government of the United States if the Secretary determines that employment under clauses (i) and (ii) is not available to the individual;

"(iv) a merchant marine officer on a U.S.-documented commercial oceangoing vessel if the Secretary determines that employment under clauses (i), (ii), and (iii) is not available to the individual;

"(v) a merchant marine officer on a U.S.-documented commercial vessel that is not an oceangoing vessel if the Secretary determines that employment under clauses (i) through (iv) is not available to the individual;

"(vi) an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under clauses (i) through (v) is not available to the individual; or

"(vii) a merchant marine officer on a foreign-documented commercial oceangoing vessel that employs mariners through a U.S.-based labor union, if the Secretary determines that employment under clauses (i) through (vi) is not available to the individual or in the best interests of the United States; and

"(E) report to the State maritime academy of graduation, or to the Secretary if directed, on compliance with subparagraphs (A) through (D) of this subsection.

"(d) Failure to Complete Agreement Requirements.—If the individual is unable or unwilling to meet the agreement requirements under subsection (c), the Secretary of Transportation may recover from the individual the amount paid under the commitment agreement, plus interest and attorney fees. The Secretary may reduce the amount to be recovered based on factors the Secretary determines merit a reduction.

"(e) Actions to Recover Cost.—To aid in the recovery of the amount paid by the Government under a commitment agreement under this section, the Secretary of Transportation may—

"(1) request the Attorney General to bring a civil action against the individual; and

"(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

"(f) Modification or Waiver.— The Secretary may waive any of the terms and conditions set forth in subsection (c) or modify such terms and conditions through the imposition of alternative service requirements.

"(g) Eligibility for Additional Payments.—An individual who receives a payment pursuant to this section shall not be eligible for payments under section 51708 of this title until the individual has fulfilled the obligated years of service under subsection (c)(2)(D) of this section.

"(h) Funding Availability.—Not to exceed 10 percent of the amounts appropriated for any fiscal year for payments authorized under this section may be transferred or reprogrammed and made available for the purpose of making payments authorized under sections 51509, 51513, and 51708, as determined by the Secretary. ".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 515 of such title is amended by inserting after the item relating to section 51511 the following new item:
"51512. Mariner education development payments.".

Analysis:

This proposal aligns with Section 13 of Executive Order (E.O.) 14269, *Restoring America's Maritime Dominance*, by advancing the education, training, and certification of additional credentialed merchant mariners. It also reflects recommendations from industry representatives participating in a Congressionally mandated Maritime Workforce Working Group, facilitated by MARAD. Specifically, the proposal would fund up to 100 percent of a State Maritime Academy (SMA) student's costs to attend the academy. MARAD would make the payments to the SMA on behalf of the student. In return, the student would commit to an obligation of up to five years. The period of the service obligation would be based on the amount the payments made to the

SMA on behalf of the student. Payments will depend on the amount of funding appropriated for the program each year and the number of students participating in the program.

The goal of the Civilian Mariner Education and Development (CMED) payment is to develop merchant mariner officers who are available to sail on government or U.S.-flag commercial vessels to offset a portion of the number of U.S. Merchant Marine Academy (USMMA) graduates that elect to take a commission in the armed forces in lieu of sailing as a merchant mariner. Historically, approximately 62 graduates (about 30 percent of each USMMA class) accept a commission in the U.S. Armed Forces. In addition, SMA Student Incentive Program enrollees and USMMA graduates, who might otherwise pursue careers as a civilian mariner, are obligated to serve in the U.S. Navy Reserves and are subject to activation in times of national need, potentially limiting the number of merchant mariners available to crew commercial vessels. The CMED payments will assist students in obtaining their merchant mariner credentials in exchange for an obligation to serve in civilian mariner positions. CMED payment recipients will play a critical role in ensuring that mariners are available to fill civilian mariner positions that support national security requirements and promote economic prosperity.

CMED payments would be based upon the average 4-year in-state cost of attendance at the state maritime academy the student is attending. The average cost is estimated to be a maximum of $167,000 per student.

This proposal would increase mandatory outlays, and the estimated effect on the deficit is:

Fiscal Years
(dollars in millions)

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Mandatory Outlays	$0	$1.7	$.2	$.1	$0	$0	$0	$0	$0	$0	$0	$2
Net Deficit Impact	$0	$1.7	$.2	$.1	$0	$0	$0	$0	$0	$0	$0	$2

Section-by-Section Summary:

Section 51512(a):

This subsection authorizes the Secretary of Transportation to make an agreement with a student at a State maritime academy to make CMED payments to the student, or on behalf of the student, for some or all costs of attending the academy for 4 academic years. The intent is to give MARAD flexibility to make the payments directly to the student, as is done currently with SIP payments, or directly to the SMA.

Section 51512(b):

This subsection gives the Secretary authority to determine the amount to be paid each year to a student, subject to the availability of appropriations. It establishes that payments will be based on the annual cost of in-state tuition, on-campus room and board, fees, books, and uniforms at the State maritime academy, paid in such amounts and installments as determined by the Secretary,

and allocated among the SMAs as determined by the Secretary. Payments must be used for tuition, room and board, fees, books, and uniforms.

Section 51512(c):

This subsection establishes requirements that a student entering into an CMED agreement must meet, including:

- Completing the course of instruction at the academy.
- Obtaining an unlimited merchant mariner credential within 3 months of completing the course of instruction at the academy.
- Maintaining a valid unlimited merchant mariner credential, transportation worker identification credential, and U.S. Coast Guard medical certificate for at least 6 years after graduation.
- Maintaining employment for at least 1 year and up to 5 years after graduation as a civil service mariner on a vessel operated by a Federal agency. If employment as a civil service mariner is not available, maintaining employment, in order of precedence as determined by the Secretary, as—
    - a merchant marine officer on a Federal vessel owned by MSC or MARAD;
    - a merchant marine officer on a U.S. Government or State government owned vessel;
    - a merchant marine officer on a U.S. documented commercial oceangoing vessel;
    - a merchant marine officer on a U.S. documented vessel that is not an oceangoing vessel;
    - an employee in a U.S. maritime-related industry, profession, or marine science; or
    - a merchant marine officer on a foreign-documented commercial oceangoing vessel that employs mariners through a U.S.-based labor union.
- Reporting to the SMA or Secretary on compliance with the requirements under the agreement.

Section 51512(d):

This subsection authorizes the Secretary of Transportation to seek recovery of CMED payments made to an individual if they fail to complete the agreement requirements under subsection (c).

Section 51512(e):

This subsection authorizes the Secretary to seek assistance from the Attorney General or to use Federal debt collection authorities to recover the cost of payments made to an individual who fails to complete the agreement requirements under subsection (c).

Section 51512(f):

This subsection authorizes the Secretary to modify or waive agreement requirements through the imposition of alternative service requirements.

Section 51512(g):

This subsection prohibits a CMED payment recipient from being eligible to receive Maritime Service Employment Reimbursement payments under 46 U.S.C. § 51708[1] until the CMED payment recipient has fulfilled their SIP service obligation. The Maritime Service Employment Reimbursement payment is intended to assist individuals who are obtaining, renewing, or upgrading their merchant mariner credential. Because CMED payment recipients would be receiving assistance under CMED, they should not also be eligible for Maritime Service Employment Reimbursement payments.

Section 51512(h):

This subsection authorizes not more than 10 percent of funds appropriated for CMED payments to be transferred or reprogrammed for Student Incentive Program payments (46 U.S.C. § 51509), SMA Training Ship Tuition and Fees Reimbursement payments (46 U.S.C. § 51513), and Maritime Service Employment Reimbursement payments (46 U.S.C. § 51708).[2] The intent is to allow funds to be allocated among other mariner training incentive payments depending on mariner recruiting and retention demands or needs.

[1] Authorization of the Maritime Service Employment Reimbursement would be added in a new section 51708 to title 46, United States Code, as part of the package of mariner training incentive legislative proposals.
[2] Authorization of the SMA Training Ship Tuition and Fees Reimbursement payments and Maritime Service Employment Reimbursement payments would be added as new sections to title 46, United States Code, as part of the package of mariner training incentive legislative proposals.

SEC. ___. MARITIME SERVICE EMPLOYMENT REIMBURSEMENT.

(a) Service Employment Reimbursement.—Chapter 517 of title 46, United States Code, is amended by adding at the end the following new section:

"Sec. 51708. Maritime Service Employment Reimbursement.

"(a) In General.— The Secretary of Transportation may make an agreement with a maritime center of excellence to make payments to the maritime center of excellence for the cost of reimbursing an individual for costs incurred to obtain, renew, or upgrade a merchant mariner credential or other credentials required for working ashore in the maritime industry.

"(b) Eligible Individual.—To receive assistance under this section, an individual must be a United States citizen.

"(c) Covered Costs.— Costs that are eligible for reimbursement under this section are costs incurred directly by an eligible individual to obtain, renew, or upgrade a merchant mariner credential or credentials required for working ashore in the maritime industry, including—

"(1) training tuition and fees;

"(2) credentialing fees;

"(3) medical screening and examination fees; and

"(4) other fees as determined by the Secretary.

"(d) Payments.—

"(1) Subject to paragraph (2), the Secretary of Transportation may provide payments to a maritime center of excellence for—

"(A) reimbursements provided by the maritime center of excellence to an eligible individual for covered costs incurred by the individual at the maritime center of excellence;

"(B) the costs of canceling or waiving payments on loans issued by the maritime center of excellence to an eligible individual, including interest on the loan of up to 5 percent per annum; or

"(C) other payments as determined by the Secretary .

"(e) Authorized uses.—Payments under paragraph (1) may be used for covered costs incurred by an eligible individual who—

"(1) incurred the covered costs at the maritime center of excellence; and

"(2) has completed—

"(A) 150 sea service days on a U.S.-flag vessel of greater than 10,0000 gross register tons within 2 years of completing the course of instruction; or

"(B) 1 year of shoreside employment at a maritime facility that directly supports the construction, repair, or maintenance of U.S. vessels, as determined by the Secretary.

"(f) Prohibited Uses.—Funds provided to a maritime center of excellence pursuant to this section may not be used to reimburse an eligible individual—

"(1) if the individual has already received reimbursements for the covered costs from an entity other than the maritime center of excellence;

"(2) if an entity other than the maritime center of excellence has paid for covered costs or provided training at no cost to the individual;

"(2) if the individual incurs covered costs associated with a degree program at a State maritime academy as defined in section 51501 of this title;

"(3) if the individual is a participant in a program under sections 51509, 51512, or 51513 of this title; or

"(4) for any expenses that exceed $10,000 per calendar year.

"(g) Administrative Expenses.—

"(1) A maritime center of excellence may retain not more than 3 percent of the annual funding provided by the Secretary to the maritime center of excellence under this section for administrative expenses incurred in providing reimbursements or payments under this section.

"(2) The Secretary may retain not more than 2 percent of the amounts appropriated for each fiscal year to make payments under this section for the administrative and oversight costs incurred by the Secretary in implementing this section.

"(h) Funding Availability.—Not to exceed 10 percent of the amounts appropriated for any fiscal year for payments authorized under this section may be transferred or reprogrammed and made available for the purpose of making payments authorized under sections 51509, 51512, and 51513, as determined by the Secretary.

"(i) Definition.—In this section the term "maritime center of excellence" means—

"(1) an American Maritime Center of Excellence, as designated under section 51501 of this title; or

"(2) a Center of Excellence for Domestic Maritime Workforce Training and Education, as designated under section 51706 of this title.".

Analysis:

This proposal aligns with Executive Order (E.O.) 14269, *Restoring America's Maritime Dominance* by advancing the education, training, and certification of additional credentialed merchant mariners and shoreside workers. It also reflects recommendations from industry representatives participating in a Congressionally mandated Maritime Workforce Working Group, facilitated by MARAD. Specifically, the proposal would authorize the Secretary of Transportation to make payments to centers of excellence (COEs) for up to $10,000 per calendar year in training and educational costs incurred by an individual to obtain, maintain, or upgrade a merchant mariner credential (MMC) or credentials required for working ashore in the maritime industry.

The costs of obtaining the required training and credentials for afloat and ashore maritime jobs can be a significant barrier to entry for those considering a career in the maritime industry. In addition, the costs of maintaining or upgrading those credentials can make it difficult to retain qualified employees in the maritime industry. This program provides funding to offset those costs. The primary focus of the program would be to assist non-officer (known as "ratings") crew on vessels in obtaining and maintaining their MMC, as well as shore-side maritime workers.

This proposal would authorize a COE to provide reimbursements to the COE for the costs of training and education incurred by an individual or the costs of canceling or waiving loan payments on a loan issued to an individual by the COE. Reimbursements would made after an individual has either completed 150 sea service days on a U.S.-flag vessel within two years or one year of employment at a shipyard or maritime facility that directly supports the construction, repair, or maintenance of U.S. vessels.

This proposal would increase mandatory outlays, and the estimated effect on the deficit is:

Fiscal Years
(dollars in millions)

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Mandatory Outlays	$0	$12.7	$1.5	$.77	$0	$0	$0	$0	$0	$0	$0	$15
Net Deficit Impact	$0	$12.7	$1.5	$.77	$0	$0	$0	$0	$0	$0	$0	$15

Section-by-Section Summary:

Section 51708(a):

This subsection authorizes the Secretary of Transportation to make an agreement with a maritime COE to make payments to the COE for the cost of reimbursing an individual for costs incurred in obtaining, renewing, or upgrading a merchant mariner credential or other credentials required for working ashore in the maritime industry.

Section 51708(b):

This subsection requires an individual to be a U.S. citizen or lawful permanent resident of the United States to be eligible to assistance under this section.

Section 51708(c):

This subsection establishes the types of costs that are eligible for reimbursement.

Section 51708(d):

This subsection establishes requirements for payments to be made under this section.

Section 51708(e):

This subsection establishes requirements that must be met by an eligible individual to be reimbursed for covered costs.

Section 51708(f):

This subsection prohibits funds from being used to reimburse an individual if—

- the individual has already received reimbursement for the costs of the education or training or if the costs were already paid for by another entity;
- the individual incurred the costs as part of an SMA degree program;
- the individual is a participant in a program at an SMA that provides assistance under 46 U.S.C. § 51509 (Student Incentive Program), 46 U.S.C. § 51512 (Civilian Maritime Education and Development payments), or 46 U.S.C. § 51513 (SMA Training Ship Tuition and Fees Reimbursement); or
- for any expense that exceed $10,000 per calendar year.

Section 51708(g):

This subsection authorizes a COE to retain not more than 3 percent of the annual funding provided by the Secretary to the COE under this section each fiscal year for administrative expenses. It also allows the Secretary to retain not more than 2 percent of funds appropriated for payments under this section each fiscal year for administrative and oversight costs.

Section 51708(h):

This subsection authorizes not more than 10 percent of funds appropriated for payments under this section to be transferred or reprogrammed for Student Incentive Program payments (46 U.S.C. § 51509), Civilian Maritime Education and Development payments (46 U.S.C. § 51512),

and SMA Training Ship Tuition and Fees Reimbursement payments (46 U.S.C. § 51513).[3] The intent is to allow funds to be allocated among other mariner training incentive payments depending on mariner recruiting and retention demands or needs.

Section 51708(i):

This subsection defines "maritime center of excellence" as including SMAs, which are designated as American Centers of Excellence under 46 U.S.C. § 51501, and Centers of Excellence for Domestic Maritime Workforce Training and Education, as designated under 46 U.S.C. § 51706.

[3] Authorization of the Civilian Mariner Education and Development Payments and SMA Training Ship Tuition and Fees Reimbursement payments would be added as new sections to title 46, United States Code, as part of the package of mariner training incentive legislative proposals.

SEC. ___. STUDENT INCENTIVE PAYMENT AGREEMENTS.

Section 51509 of title 46, United States Code, is amended—

(1) in subsection (b)—

(A) by deleting paragraphs (1) and (2) and inserting the following:

"(1) In general.—Payments under an agreement under this section shall be—

"(A) paid in amounts as determined by the Secretary, but shall not exceed 50 percent of the average total of the in-state cost of attendance charged by all State maritime academies for a four-year merchant marine officer preparation program;

"(B) paid in such installments as the Secretary shall determine while the individual is attending the academy; and

"(C) allocated among the State maritime academies as prescribed by the Secretary.";

(B) by redesignating paragraph (3) as paragraph (2);

(C) in paragraph (2), as redesignated, by deleting "uniforms, tuition, books, and subsistence" and inserting "the cost of attendance at the academy";

(2) in subsection (e)(1)—

(A) in subparagraph (A)(ii), by deleting "$8,000" and inserting "10 percent of the agreed upon amount"; and

(B) in subparagraph (B)(ii), by deleting "$16,000" and inserting "25 percent of the agreed upon amount; and

(3) by inserting after subsection (i) the following:

"(j) Eligibility for Additional Payments.—A student who receives a payment pursuant to this section shall not be eligible for payments under section 51708 of this title until the student has fulfilled the obligated three years of service under subsection (d)(5).

"(k) Funding Availability.—Not to exceed 10 percent of the amounts appropriated for any fiscal year for payments authorized under this section may be transferred or reprogrammed and made available for the purpose of making payments authorized under sections 51512, 51513, and 51708, as determined by the Secretary.

"(l) Definition.—The term "cost of attendance" means tuition, room and board costs, fees, books, and uniforms.".

Analysis:

This proposal aligns with Section 13 of Executive Order (E.O.) 14269, *Restoring America's Maritime Dominance*, by advancing the education, training, and certification of additional credentialed merchant mariners. It also reflects recommendations from industry representatives participating in a Congressionally mandated Maritime Workforce Working Group, facilitated by MARAD. Specifically, the proposal would amend the Student Incentive Program (SIP), which provides payments to students at State Maritime Academies (SMAs) to be used for the costs of attending an academy. Currently, there is a cap of $64,000 in statute on the amount that can be paid to a student under the program. This proposal would change the funding cap from a fixed amount across all SMAs and index the maximum payment to not more than 50 percent of the average cost of attendance at all the SMAs. The current average cost of attendance is approximately $167,000. Under the proposed change, the SIP cap would be 50 percent of that amount ($83,500). The intent is to alleviate the need to update the maximum SIP payment amount in statute as the costs of attendance increase over time.

In return for the SIP payments, a student commits to a service obligation that includes:

- maintaining an unlimited merchant mariner credential for six years;
- applying for, and accepting if offered, a reserve commission in the armed forces for eight years; and
- serving for a least three years after graduation from the SMA as a merchant marine officer or commissioned officer in a uniformed service.

Section-by-Section Summary:

46 U.S.C. § 51509(b):

- Deletes current requirements that SIP payments be allocated equally among all State maritime academies. Deleting this requirement will provide flexibility to allocate SIP funding based on demand.
- Deletes the current cap on SIP payments and instead authorizes payments based on the average four-year cost of attending a State maritime academy. The amount of funding available for SIP payments still would be based on the availability of appropriations, but removing the current payment cap would allow the authorized amount of SIP payments to keep pace with the cost of attending a State maritime academy.
- Clarifies that payments may be used for the cost of attendance at the academy and defines "cost of attendance," in subsection (l), as including tuition, room and board costs, fees, books, and uniforms.

46 U.S.C. § 51509(e):

- Under subsection (e)(1), if a SIP payment recipient fails to complete the course of instruction at a State maritime academy, the Secretary of War may order the student to serve on active duty based on how long the student has attended the academy and how much in SIP payments the student has received. This proposal amends the SIP payment thresholds to reflect the change made in subsection (b) that ties SIP payments to the cost of attendance rather than a set dollar amount in statute.

46 U.S.C. § 51509(j):

- Adds a new subsection (j) to prohibit a SIP payment recipient from being eligible to receive Maritime Service Employment Reimbursement payments under 46 U.S.C. § 51708[4] until the SIP payment recipient has fulfilled their SIP service obligation. The Maritime Service Employment Reimbursement payment is intended to assist individuals who are obtaining, renewing, or upgrading their merchant mariner credential. Because SIP payment recipients would be receiving assistance under SIP, they should not also be eligible for Maritime Service Employment Reimbursement payments.

46 U.S.C. § 51509(k):

- Adds a new subsection (k) to allow not more than 10 percent of funds appropriated for SIP payments to be transferred or reprogrammed for Civilian Mariner Education and Development payments (46 U.S.C. § 51512), SMA Training Ship Tuition and Fees Reimbursement payments (46 U.S.C. § 51513), and Maritime Service Employment Reimbursement payments (46 U.S.C. § 51708).[5] The intent is to allow funds to be allocated among other mariner training incentive payments depending on mariner recruiting and retention demands or needs.

46 U.S.C. § 51509(l):

- Adds a definition of "cost of attendance" to mean tuition, room and board costs, fees, books, and uniforms.

Comparative Type:
(Italicized, bracketed language is to be deleted; bold, underlined language is to be added.)

46 U.S.C. Sec. 51509. Student incentive payment agreements

(a) General Authority.—If a State maritime academy has an agreement with the Secretary of Transportation under section 51505 of this title, the Secretary may make an agreement with a student at the academy who is a citizen of the United States to make student incentive payments to the individual. An agreement with a student may not be effective for more than 4 academic years. *[The Secretary shall allocate payments under this section among the various State maritime academies in an equitable manner.]*

(b) Payments.—

[(1) In general.—Except as provided in paragraph (2), payments under an agreement under this section shall be equal to $16,000 each academic year and be paid in such installments as the Secretary shall determine while the individual is attending the academy, as prescribed by the Secretary.

[4] Authorization of the Maritime Service Employment Reimbursement would be added in a new section 51708 to title 46, United States Code, as part of the package of mariner training incentive legislative proposals.
[5] Authorization of the Civilian Mariner Education and Development Payments, SMA Training Ship Tuition and Fees Reimbursement payments, and Maritime Service Employment Reimbursement payments would be added as new sections to title 46, United States Code, as part of the package of mariner training incentive legislative proposals.

(2) Exception.—The Secretary may modify the payments made to an individual under paragraph (1), but the total amount of payments to that individual may not exceed $64,000.]

(1) In General.—Payments under an agreement under this section shall be—

(A) paid in amounts as determined by the Secretary, but shall not exceed 50 percent of the average total of the in-state cost of attendance charged by all State maritime academies for a four-year merchant marine officer preparation program;

(B) paid in such installments as the Secretary shall determine while the individual is attending the academy; and

(C) allocated among the State maritime academies as prescribed by the Secretary.

(~~3~~**2**) Authorized Uses.—The payments shall be used for uniforms, tuition, books, and subsistence.

(c) Enlisted Reserve Status.—An agreement under this section shall require the student to accept enlisted reserve status in the Navy Reserve (including the Strategic Sealift Officer Program, Navy Reserve) or the Coast Guard Reserve before receiving any payments under the agreement.

(d) Agreement Requirements.—An agreement under this section shall require the student to—

(1) complete the course of instruction at the academy the individual is attending;

(2) obtain a merchant mariner license, without limitation as to tonnage or horsepower, from the Coast Guard as an officer in the merchant marine of the United States, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages, without limitation, within three months of completion of the course of instruction at the academy the individual is attending;

(3) for at least 6 years after graduation from the academy, maintain—

(A) a valid merchant mariner license, unlimited as to horsepower or tonnage, issued by the Coast Guard as an officer in the merchant marine of the United States, accompanied by the appropriate national and international endorsements and certifications required by the Coast Guard for service aboard vessels on domestic and international voyages, without limitation;

(B) a valid transportation worker identification credential; and

(C) a Coast Guard medical certificate;

(4) apply for, and accept, if tendered, an appointment as a commissioned officer in the Navy Reserve (including the Strategic Sealift Officer Program, Navy Reserve), the Coast Guard Reserve, or any other reserve component of an armed force of the United States, and, if tendered the appointment, to serve and meet the participation requirements and to maintain active status in good standing, as determined by the program manager of the appropriate military service, for at least 8 years after the date of commissioning;

(5) serve the foreign and domestic commerce and the national defense of the United States for at least 3 years after graduation from the academy—

(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under subparagraph (A) is not available to the individual;

(C) 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 Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

(D) by a combination of the service alternatives referred to in subparagraphs (A)–(C); and

(6) report to the Secretary on compliance with this subsection.

(e) Failure to Complete Course of Instruction.—

(1) Active Duty.—

(A) In General.—The Secretary of War may order an individual to serve on active duty in the armed forces of the United States for a period of not more than 2 years if—

(i) the individual has attended an academy under this section for more than 2 academic years, but less than 3 academic years;

(ii) the individual has accepted the payments described in subsection (b) in an amount totaling at least *[$8,000]* **10 percent of the agreed upon amount**; and

(iii) the Secretary of Transportation has determined that the individual has failed to fulfill the part of the agreement described in subsection (d)(1).

(B) 3 or more years.—The Secretary of War may order an individual to serve on active duty in the armed forces of the United States for a period of not more than 3 years if—

(i) the individual has attended an academy under this section for 3 or more academic years;

(ii) the individual has accepted the payments described in subsection (b) in an amount totaling at least *[$16,000]* **25 percent of the agreed upon amount**; and

(iii) the Secretary of Transportation has determined that the individual has failed to fulfill the part of the agreement described in subsection (d)(1).

(C) Hardship waiver.—In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

(2) Recovery of Cost.—If the Secretary of War is unable or unwilling to order an individual to serve on active duty under paragraph (1), 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 of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

(f) Failure to Carry Out Other Requirements.—

(1) Active Duty.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (d)(2)–(6), the individual may be ordered to serve on active duty for a period of at least 2 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (d)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

(2) Recovery of Cost.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), 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 of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

(g) Actions to Recover Cost.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

(1) request the Attorney General to bring a civil action against the individual; and

(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

(h) Alternative Service.—

(1) Service as Commissioned Officer.—An individual who, for the 5-year period following graduation from an academy, serves as a commissioned officer on active duty in an armed force of the United States or as a commissioned officer of the National Oceanic and Atmospheric Administration or the Public Health Service shall be excused from the requirements of paragraphs (3) through (5) of subsection (d).

(2) Modification or Waiver.—The Secretary may modify or waive any of the terms and conditions set forth in subsection (d) through the imposition of alternative service requirements.

(i) Age Requirement.—The Secretary may make an agreement under this section only with a qualified student who will meet the age requirement for enlistment or commission in the Navy Reserve at the time of graduation from the academy.

(j) Eligibility for Additional Payments.—A student who receives a payment pursuant to this section shall not be eligible for payments under section 51708 of this title until the student has fulfilled the obligated three years of service under subsection (d)(5).

(k) Funding Availability.—Not to exceed 10 percent of the amounts appropriated for any fiscal year for payments authorized under this section may be transferred or reprogrammed and made available for the purpose of making payments authorized under sections 51512, 51513, and 51708, as determined by the Secretary.

SEC. ___. STATE MARITIME ACADEMY REIMBURSEMENT FOR TRAINING SHIP CADET TUITION AND FEES.

(a) Mariner Education and Development Payments.—Chapter 515 of title 46, United States Code, is amended by adding at the end the following new section:

"51513. State maritime academy reimbursement for training ship cadet tuition and fees.

"(a) In General.—If a State maritime academy has an agreement with the Secretary of Transportation under section 51505 of this title, the Secretary may make an agreement with a student at the academy who is a citizen of the United States to make payments to the State maritime academy on behalf of the individual for the cost of the tuition and fees charged by the State maritime academy for the student to sail on a training cruise on a training ship owned by the Maritime Administration.

"(b) Payments.—Payments under this section shall be as prescribed by the Secretary but shall not exceed the cost charged by the State maritime academy for the student to obtain the minimum number of sea days needed on board a training ship owned by the Maritime Administration to obtain a merchant mariner credential, without limitation as to tonnage or horsepower, from the Coast Guard as an officer in the merchant marine of the United States, accompanied by the appropriate national and international endorsements and certifications required by the Coast Guard for service aboard vessels on domestic and international voyages, without limitation.

"(c) Agreement Requirements.—An agreement under this section shall require the student to—

"(1) complete the course of instruction at the academy the individual is attending within 6 years of enrollment;

"(2) obtain a merchant mariner credential, without limitation as to tonnage or horsepower, from the Coast Guard as an officer in the merchant marine of the United States, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages, without limitation, within three months of completion of the course of instruction at the academy the individual is attending;

"(3) for at least 6 years after graduation from the academy, maintain—

"(A) a valid merchant mariner credential, unlimited as to horsepower or tonnage, issued by the Coast Guard as an officer in the merchant marine of the United States, accompanied by the appropriate national and international endorsements and certifications required by the Coast Guard for service aboard vessels on domestic and international voyages, without limitation;

"(B) a valid transportation worker identification credential; and

"(C) a Coast Guard medical certificate;

"(4) apply for, and accept, if tendered a position commensurate with the obtained merchant mariner credential for three years after graduation from the academy or, if the individual has a student incentive program agreement under section 51509 of title 46, United States Code, one year in addition to the obligation required under section 51509(d)(5)—

"(A) as a merchant marine officer on a vessel operated by the United States Government or by a State;

"(B) as a merchant marine officer on a United States documented vessel;

"(C) as an employee in a United States maritime-related industry, profession, or marine science, as determined by the Secretary;

"(D) 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

"(E) by a combination of service alternatives referred to in subparagraphs (A) through (D) of this subsection;

"(5) report to the State maritime academy of graduation, or to the Secretary if directed, on compliance with paragraphs (1) through (4) of this subsection.

"(d) State Maritime Academy Reporting.—

"(1) A State maritime academy that received payments on behalf of an individual under this section must provide the Maritime Administrator with information that demonstrates that compliance with subsection (c)(4) by that individual.

"(2) If a State maritime academy is unable to obtain information that demonstrates compliance with subsection (c)(4), the State maritime academy shall report to the Maritime Administrator that the individual is not in compliance with subsection (c)(4).

"(3) The frequency of the State maritime academy reporting period shall not exceed 365 days.

"(4) A State maritime academy may retain not more than 3 percent of the annual funding provided by the Secretary under this section for administrative expenses incurred in complying with this subsection.

"(e) Failure to Complete Agreement Requirements.—If the individual is unable or unwilling to meet the agreement requirements under subsection (c), the Secretary of Transportation may recover from the individual the amount of payments in subsection (b), plus interest and attorney

fees. The Secretary may reduce the amount to be recovered to reflect partial performance of obligations and other factors the Secretary determines merit a reduction.

"(f) Actions to Recover Cost.—To aid in the recovery of funds provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

"(1) request the Attorney General to bring a civil action against the individual; and

"(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

"(g) Modification or Waiver.— The Secretary may waive any of the terms and conditions set forth in subsection (c) or modify such terms and conditions through the imposition of alternative service requirements.

"(h) Eligibility for Additional Payments.—An individual who receives a payment pursuant to this section shall not be eligible for payments under section 51708 of this title until the individual has fulfilled the obligated three years of service under subsection (c)(4).

"(i) Funding Availability.—Not to exceed 10 percent of the amounts appropriated for any fiscal year for payments authorized under this section may be transferred or reprogrammed and made available for the purpose of making payments authorized under sections 51509, 51512, and 51708, as determined by the Secretary.'.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 515 of such title is amended by inserting after the item relating to section 51512 the following new item:
"51513. State maritime academy reimbursement for training ship cadet tuition and fees.".

Analysis:

This proposal aligns with Section 13 of Executive Order (E.O.) 14269, *Restoring America's Maritime Dominance*, by advancing the education, training, and certification of additional credentialed merchant mariners. It also reflects recommendations from industry representatives participating in a Congressionally mandated Maritime Workforce Working Group, facilitated by MARAD. Specifically, the proposal would pay for a State Maritime Academy (SMA) cadet's tuition and fees for sailing on a MARAD-owned training ship. A key impediment for students when pursuing an unlimited merchant mariner credential (MMC) is the cost of training on a vessel. An SMA training cruise costs approximately $30,000, which effectively adds a fifth year of tuition for a cadet pursuing an MMC.

Approximately 75 percent of credentialed merchant mariner officers meet their sea-time prerequisite by sailing on a MARAD-owned training ship. Increasing this pool of credentialed mariners will make more mariners available for DOD sealift support.

In return for reimbursement of training ship tuition and fees, this proposal would require SMA graduates to:

- maintain their unlimited MMC for six years; and
- be employed for three years as:
    - a merchant marine officer on a vessel operated by the United States Government or by a State;
    - as a merchant marine officer on a U.S.-documented vessel;
    - as an employee in a U.S. maritime-related industry, profession, or marine science, as determined by the Secretary; or
    - as a commissioned officer on active duty in the armed forces or as a commissioned officer for NOAA.

This proposal would increase mandatory outlays, and the estimated effect on the deficit is:

Fiscal Years
(dollars in millions)

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Mandatory Outlays	$0	$22	$2.6	$1.3	$0	$0	$0	$0	$0	$0	$0	$26
Net Deficit Impact	$0	$22	$2.6	$1.3	$0	$0	$0	$0	$0	$0	$0	$26

Section-by-Section Summary:

Section 51513(a):

This subsection authorizes the Secretary of Transportation to make an agreement with a student at an SMA to make payments to reimburse the SMA for the tuition and fees charged by the SMA for the student to sail on a MARAD-owned training ship.

Section 51513(b):

This subsection establishes that payments shall not exceed the cost charged by the SMA for the student to obtain the minimum number of sea days needed to obtain an unlimited merchant mariner credential.

Section 51513(c):

This section establishes requirements that a student entering into an agreement must meet, including:

- Completing the course of instruction at the academy.
- Obtaining an unlimited merchant mariner credential within three months of completing the course of instruction at the academy.
- Maintaining a valid unlimited merchant mariner credential, transportation worker identification credential, and U.S. Coast Guard medical certificate for at least six years after graduation.
- Maintaining employment for three years after graduation (or one year for individuals with a SIP agreement), as—

    - a merchant marine officer on a vessel operated by the U.S. Government or by a State;
    - as a merchant marine officer on a U.S.-documented vessel;
    - as an employee in a U.S. maritime-related industry, profession, or marine science, as determined by the Secretary;
    - as a commissioned officer on active duty in the armed forces or as a commissioned officer for NOAA; or
    - by a combination of the above service alternatives.
- Reporting to the SMA or Secretary on compliance with the requirements under the agreement.

SMA students may receive payments under this section in addition to payments under SIP. If an individual has an agreement to receive SIP payments, the individual's employment obligation under this section would be reduced to one year instead of three years. Therefore, a student receiving both SIP payments and training ship tuition and fees payments would have a total employment obligation of four years – three years for the SIP payment and one year for the training ship tuition and fees payment.

Section 51513(d):

This subsection establishes reporting requirements for SMAs receiving payments under this section. Specifically, it requires an SMA that has received reimbursement payments under this section to report once annually to MARAD on compliance by students with the agreement requirements under subsection (c).

This subsection also allows three percent of the funds provided to an SMA under this section to be used for administrative expenses to assist with compliance.

Section 51513(e):

This subsection authorizes the Secretary of Transportation to seek recovery of payments made under this section if an individual fails to complete the agreement requirements under subsection (c).

Section 51513(f):

This subsection authorizes the Secretary to seek assistance from the Attorney General or to use Federal debt collection authorities to recover the cost of payments made to an individual who fails to complete the agreement requirements under subsection (c).

Section 51513(g):

This subsection authorizes the Secretary to modify or waive agreement requirements through the imposition of alternative service requirements.
Section 51513(h):

This subsection prohibits an SMA Training Ship Tuition and Fees Reimbursement payment recipient from being eligible to receive Maritime Service Employment Reimbursement payments under 46 U.S.C. § 51708[6] until the payment recipient has fulfilled their three-year service obligation under subsection (c).

Section 51513(i):

This subsection authorizes not more than 10 percent of funds appropriated for SMA Training Ship Tuition and Fees Reimbursement payments to be transferred or reprogrammed for Student Incentive Program payments (46 U.S.C. § 51509), Civilian Mariner Education and Development payments (46 U.S.C. § 51512), and Maritime Service Employment Reimbursement payments (46 U.S.C. § 51708).[7] The intent is to allow funds to be allocated among other mariner training incentive payments depending on mariner recruiting and retention demands or needs.

[6] Authorization of the Maritime Service Employment Reimbursement would be added in a new section 51708 to title 46, United States Code, as part of the package of mariner training incentive legislative proposals.
[7] Authorization of the Civilian Mariner Education and Development Payments, SMA Training Ship Tuition and Fees Reimbursement payments, and Maritime Service Employment Reimbursement payments would be added as new sections to title 46, United States Code, as part of the package of mariner training incentive legislative proposals.

SEC. ___. MODIFICATION OF CARGO PREFERENCE THREE-YEAR ELIGIBILITY RULE.

Section 55305(b) of title 46, United States Code, is amended by striking "after January 1, 2030,".

Analysis:

This provision would remove a barrier to entry into the U.S.-flag fleet by making available immediately a mechanism for foreign-built vessels to access non-Department of Defense (DOD) preference cargoes.

Under current law, foreign-built vessels must operate under the U.S. flag for three years prior to becoming eligible for non-DOD preference cargoes. Originally enacted in 1961, when the U.S.-flag fleet had hundreds of vessels, this limitation was intended to provide a measure of economic security to U.S. shipyards. Now, however, the restriction acts as an artificial constraint on the U.S.-flag shipping market that leaves our Nation with only 93 cargo ships sailing internationally, all of which were constructed in foreign shipyards.

Congress, recognizing that this limitation weakens our Nation's ability to expand the U.S.-flag internationally sailing commercial fleet, amended the restriction in the FY 2024 National Defense Authorization Act (NDAA), Pub. L. No. 118-31. The amendment maintained the current three-year waiting period, but provided, as an alternative, an option to forgo the waiting period if the vessel owner signs a commitment to stay under the U.S. flag for three years and enroll in the Voluntary Intermodal Sealift Agreement, Voluntary Tanker Agreement, or similar agreement authorized under section 708 of the Defense Production Act of 1950 (50 U.S.C. § 4558). When enacted, however, Congress delayed access to this alternative until after January 1, 2030. This proposal would delete this effective date and make the option available immediately.

The current three-year wait restriction hinders U.S.-flag vessels sailing internationally from effectively competing in the global market and disincentivizes carriers from registering new tonnage in the U.S. fleet. Vessels in the U.S.-flag fleet rely on access to preference cargoes to defray the comparatively higher costs of complying with U.S. maritime requirements when operating internationally. Current law both restricts competition and drives up shipping costs, while limiting Federal agencies' ability to rely on modern, effective sealift in time of both peace and conflict. Removing this barrier would enhance competition among carriers transporting Government-impelled cargo internationally, thereby reducing transportation costs to shippers, including the Federal Government. It would also have the incidental benefit of increasing the mariner pool by expanding job opportunities for U.S. mariners.

Comparative Type:
(Italicized, bracketed language is to be deleted.)

46 U.S.C. Sec. 55305. Cargoes procured, furnished, or financed by the United States Government

(a) Minimum Tonnage.-When the United States Government procures, contracts for, or otherwise obtains for its own account, or furnishes to or for the account of a foreign country, organization, or persons without provision for reimbursement, any equipment, materials, or commodities, or provides financing in any way with Federal funds for the account of any persons unless otherwise exempted, within or without the United States, or advances funds or credits, or guarantees the convertibility of foreign currencies in connection with the furnishing or obtaining of the equipment, materials, or commodities, the appropriate agencies shall take steps necessary and practicable to ensure that at least 50 percent of the gross tonnage of the equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels is transported on privately-owned commercial vessels of the United States, as provided under subsection (b), to the extent those vessels are available at fair and reasonable rates for commercial vessels of the United States, in a manner that will ensure a fair and reasonable participation of commercial vessels of the United States in those cargoes by geographic areas.

(b) Eligible Vessels.-To be eligible to carry cargo as provided under subsection (a), a privately-owned commercial vessel shall be documented under the laws of the United States-

(1) for not less than three years; or

(2) *[after January 1, 2030,]* for less than three years, if the vessel owner signs an agreement with the Secretary providing that-

(A) the vessel shall remain documented under the laws of the United States for not less than three years; and

(B) the vessel owner shall, upon request of the Secretary, agree to enroll the vessel in an emergency preparedness agreement or voluntary agreement authorized under section 708 of the Defense Production Act of 1950 (50 U.S.C. 4558) and shall ensure the vessel remains so enrolled until the vessel ceases to be documented under the laws of the United States.

***

SEC. ___. CARGO PREFERENCE ENFORCEMENT.

(a) Section 55305 of title 46, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "Minimum Tonnage.—When the United States Government" and inserting "Requirement to Use U.S.-Flag Vessels.-When a United States Government department or agency"; and

(B) striking "the appropriate agencies shall take steps necessary" and all that follows through the end of the subsection and inserting "the department or agency must ensure that all equipment, materials, or commodities that may be transported on ocean vessels, except when required for the timely transportation of cargoes under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), is transported on privately-owned commercial vessels of the United States.";

(2) deleting subsection (d) and inserting:

"(d) Waivers.—The requirements under this section may be waived as provided for in this subsection.

"(1) The President, the Secretary of War, or the Secretary of State may waive this section temporarily by—

"(A) declaring the existence of an emergency justifying a waiver; and

"(B) notifying the appropriate agencies of the waiver; or

"(2) Upon the request of a U.S. Government department or agency filed at least 10 days prior to transportation of equipment, materials, and commodities subject to this section, the Secretary of Transportation may waive the requirements in subsection (a), for all or part of the transportation, if the Secretary determines there are no privately-owned commercial vessels of the United States—

"(A) responsive to the solicitation by vessel type;

"(B) available at fair and reasonable rates for commercial vessels of the United States; or

"(C) otherwise available.

"(3) For waiver requests filed pursuant to paragraph (2), the Secretary of Transportation shall not be obligated to issue a waiver sooner than 10 days prior to transportation.

"(4) The Secretary of Transportation shall notify the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of—

"(A) any waiver request made pursuant to paragraph (2) not later than 72 hours after receiving such a request; and

"(B) the issuance of any such waiver not later than 72 hours after issuing the waiver.

"(4) Waivers issued pursuant to paragraph (2) shall be published on the Department of Transportation website within 5 business days.

"(5) The Secretary of Transportation, in consultation with the Secretary of State, is authorized to promulgate regulations defining "fair and reasonable rates for commercial vessels of the United States as cost based" for purposes of the determinations established in paragraph (2). The goal of such regulations shall be to provide clarity and reduce procedural friction in the waiver process by establishing an objective standard based on vessel cost, to the maximum extent possible, in relevant and accessible market and cost data.".

(3) in subsection (e)—

(A) in the subsection heading, by striking "Programs of Other Agencies" and inserting "Department and Agency Requirements";

(B) by striking paragraph (1) and inserting:

"(1) Each Federal Government department or agency that transports equipment, commodities, or materials shall –

"(A) include provisions in each Federal solicitation, application, agreement, or procurement contract requiring each contract applicant or offeror to acknowledge that ocean transportation contracted under the agreement or procurement contract must comply with this section and related regulations issued by the Secretary of Transportation;

"(B) submit to the Secretary agreements, procurements, or other contracts at least 45 days before ocean carriage, along with corresponding plans for complying with this section that describe—

"(i) all cargoes, both known and anticipated, with specificity;

"(ii) the proposed ports of loading and discharge and expected dates of ocean carriage;

"(iii) all parties involved in the ocean transportation of the cargoes, including brokers and freight forwarders; and

"(iv) any other relevant information required by the Secretary of Transportation;

"(C) provide the Maritime Administration with the Automated Commercial Environment Internal Transaction Number that corresponds with each ocean bill of lading number for each ocean shipment of cargo under contract, including those transported on foreign-flag vessels—

"(i) within 20 working days after the date of loading for shipments originating in the United States;

"(ii) within 30 working days after the date of loading for shipments originating outside of the United States; or

"(iii) in instances for which an Automated Commercial Environment Internal Transaction Number is not available, a legible, complete copy of a rated on-board ocean bill of lading in English, within times specified in clauses (i) or (ii); and

"(D) exercise contractual rights and remedies against contractors who fail to comply with contractual provisions requiring the use of U.S.-flag vessels, as determined by the Secretary of Transportation, including by—

"(i) equitably adjusting the contract price downward by an amount equal to the difference in the cost of a foreign-flag vessel used in violation of the contract and the estimated cost of using a U.S.-flag vessel to carry the same cargo;

"(ii) determining that a contractor is ineligible for an award of such a contract; or

"(iii) terminating such a contract or suspension or debarment of the contractor for such a contract; and

"(E) retain records collected pursuant to this section for 5 years after each shipment is completed."; and

(C) in paragraph (2)—

(i) by striking subparagraphs (A) and (B) and inserting:

"(A) has sole authority for determining compliance by a department, agency, or individual with this section;

"(B) may provide guidance on whether a department or agency is operating in compliance with the requirements of this section;

"(C) shall review every shipment and compliance plan subject to the requirements of this section;

"(D) shall annually submit to the Committee on Transportation and Infrastructure and Committee on Armed Forces of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on department and agency compliance with this section, including submission of compliance plans;";

(ii) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively; and

(iii) in subparagraph (F), as redesignated, by deleting "may take other measures as appropriate under" and inserting "shall notify agencies of violations so that other measures may be taken as appropriate under subsection (e)(1)(D) of this section or".

(b) This section shall become effective 180 days after the date of enactment.

Analysis:

In a September 2022 report, the United States Government Accountability Office (GAO) recommended that MARAD develop a legislative proposal to address statutory challenges to ensuring compliance with U.S. cargo preference laws. This proposal would address those challenges and enable more effective enforcement of cargo preference laws enacted by Congress. Specifically, the proposal would amend 46 U.S.C § 55305, which governs cargo preference requirements for civilian agency (non-military) cargo purchased or financed with Federal Government funds, to increase the amount of cargo that must be transported on U.S.-flag vessels from 50 to 100 percent, strengthen requirements for transporting cargo on U.S.-flag vessels, and streamline MARAD's enforcement efforts.

U.S.-flag vessels operating in international trade rely on access to preference cargoes to defray the comparatively higher costs of complying with U.S. maritime requirements when operating internationally. The changes under this proposal would provide owners and operators of U.S.-flag vessels operating in international trade greater access to government-impelled cargoes needed for them to remain competitive and operate under the U.S. flag. It would also clarify Federal civilian agencies' responsibilities in complying with cargo preference laws, clearly establish MARAD's enforcement requirements, and increase transparency for all stakeholders.

Please see Appendix A for a detailed section-by-section analysis.

Comparative Type:
(Italicized, bracketed language is to be deleted; bold, underlined language is to be added.)

46 U.S.C. Sec. 55305. Cargoes procured, furnished, or financed by the United States Government

(a) *[Minimum Tonnage.-When the United States Government]* **Requirement to Use U.S.-Flag Vessels.—When a United States Government department or agency** procures, contracts for, or otherwise obtains for its own account, or furnishes to or for the account of a foreign country, organization, or persons without provision for reimbursement, any equipment, materials, or commodities, or provides financing in any way with Federal funds for the account of any persons unless otherwise exempted, within or without the United States, or advances funds or credits, or guarantees the convertibility of foreign currencies in connection with the furnishing or obtaining of the equipment, materials, or commodities, *[the appropriate agencies shall take steps necessary and practicable to ensure that at least 50 percent of the gross tonnage of the equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels is transported on privately-owned commercial vessels of the United States, as provided under subsection (b) to the extent those vessels are available at fair and reasonable rates for commercial vessels of the United States, in a manner that will ensure a fair and reasonable participation of commercial vessels of the United States in those cargoes by geographic areas.]***the department or agency must ensure that all equipment, materials, or commodities that may be transported on ocean vessels, except when required for the timely transportation of cargoes under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), is transported on privately-owned commercial vessels of the United States.**

(b) ELIGIBLE VESSELS.—To be eligible to carry cargo as provided under subsection (a), a privately-owned commercial vessel shall be documented under the laws of the United States—

(1) for not less than three years; or

(2) after January 1, 2030, for less than three years, if the vessel owner signs an agreement with the Secretary providing that—

(A) the vessel shall remain documented under the laws of the United States for not less than three years; and

(B) the vessel owner shall, upon request of the Secretary, agree to enroll the vessel in an emergency preparedness agreement or voluntary agreement authorized under section 708 of the Defense Production Act of 1950 (50 U.S.C. 4558) and shall ensure the vessel remains so enrolled until the vessel ceases to be documented under the laws of the United States.

(c) VIOLATION OF AGREEMENT.—A vessel under an agreement executed pursuant to subsection (b)(2) may be seized by, and forfeited to, the United States if, in violation of that agreement—

(1) the vessel owner places the vessel under foreign registry; or

(2) a person operates the vessel under the authority of a foreign country.

[(d) WAIVERS.—

(1) Notwithstanding any other provision of law, when the President, the Secretary of Defense, or the Secretary of Transportation declares the existence of an emergency justifying a temporary waiver of this section or section 55314 of this title, the President, the Secretary of Defense, or the Secretary of Transportation, following a determination by the Maritime Administrator, acting in the Administrator's capacity as Director, National Shipping Authority, of the non-availability of qualified United States flag capacity at fair and reasonable rates for commercial vessels of the United States to meet the requirements of this section or section 55314 of this title, may waive compliance with such section to the extent, in the manner, and on the terms the Maritime Administrator, acting in such capacity, prescribes, and no other waivers of the requirements of this section or section 55314 of this title shall be authorized.

(2)(A) Subject to subparagraphs (B) and (C), a waiver issued under this subsection shall be for a period of not more than 60 days.

(B) Upon termination of the period of a waiver issued under this subsection, the Maritime Administrator may extend the waiver for an additional period of not more than 30 days, if the Maritime Administrator makes the determinations described in paragraph (1).

(C) The aggregate duration of the period of all waivers and extensions of waivers under this subsection with respect to any one set of events shall not exceed three months in a fiscal year.

(3) The Maritime Administrator shall—

(A) for each determination referred to in paragraph (1), identify any actions that could be taken to enable qualified United States flag capacity to meet the requirements of this section or section 55314 at fair and reasonable rates for commercial vessels of the United States;

(B) provide notice of each determination referred to in paragraph (1) to the Secretary of Transportation and, as applicable, the President or the Secretary of Defense; and

(C) publish each determination referred to in paragraph (1)—

(i) on the website of the Maritime Administration not later than 24 hours after notice of the determination is provided to the Secretary of Transportation; and

(ii) in the Federal Register.

(4) The Maritime Administrator shall notify—

(A) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of—

(i) any request for a waiver (or an extension thereof) made by the Secretary of Transportation of this section or section 55314(a) of this title by not later than 72 hours after receiving such a request; and

(ii) the issuance of any such waiver (or an extension thereof), and why such waiver or extension was necessary, by not later than 72 hours after such issuance; and

(B) the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate and the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives of—

(i) any request for a waiver (or an extension thereof) made by the Secretary of Defense of this section or section 55314(a) of this title by not later than 72 hours after receiving such a request; and

(ii) the issuance of any such waiver (or an extension thereof), and why such waiver or extension was necessary, by not later than 72 hours after such issuance.]

(d) Waivers.— The requirements under this section may be waived as provided for in this subsection.

(1) The President, the Secretary of War, or the Secretary of State may waive this section temporarily by—

(A) declaring the existence of an emergency justifying a waiver; and

(B) notifying the appropriate agencies of the waiver; or

(2) Upon the request of a U.S. Government department or agency filed at least 10 days prior to transportation of equipment, materials, and commodities subject to this section, the Secretary of Transportation may waive the requirements in subsection (a), for all or part of the transportation, if the Secretary determines there are no privately-owned commercial vessels of the United States—

(A) responsive to the solicitation by vessel type;

(B) available at fair and reasonable rates for commercial vessels of the United States; or

(C) otherwise available.

(3) For waiver requests filed pursuant to paragraph (2), the Secretary of Transportation shall not be obligated to issue a waiver sooner than 10 days prior to transportation.

(4) The Secretary of Transportation shall notify the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of—

(A) any waiver request made pursuant to paragraph (2) not later than 72 hours after receiving such a request; and

(B) the issuance of any such waiver not later than 72 hours after issuing the waiver.

(4) Waivers issued pursuant to paragraph (2) shall be published on the Department of Transportation website within 5 business days.

(5) The Secretary of Transportation, in consultation with the Secretary of State, is authorized to promulgate regulations defining "fair and reasonable rates for commercial vessels of the United States as cost based" for purposes of the determinations established in paragraph (2). The goal of such regulations shall be to provide clarity and reduce procedural friction in the waiver process by establishing an objective standard based on vessel cost, to the maximum extent possible, in relevant and accessible market and cost data.

(e) *[Programs of Other Agencies]* **Department and Agency Requirements**.—

[(1) Each department or agency that has responsibility for a program under this section shall administer that program with respect to this section under regulations and guidance issued by the Secretary of Transportation. The Secretary, after consulting with the department or agency or organization or person involved, shall have the sole responsibility for determining if a program is subject to the requirements of this section.]

(1) Each Federal Government department or agency that transports equipment, commodities, or materials shall—

(A) include provisions in each Federal solicitation, application, agreement, or procurement contract requiring each contract applicant or offeror to acknowledge that ocean transportation contracted under the agreement or procurement contract

must comply with this section and related regulations issued by the Secretary of Transportation;

(B) submit to the Secretary agreements, procurements, or other contracts at least 45 days before ocean carriage, along with corresponding plans for complying with this section that describe—

(i) all cargoes, both known and anticipated, with specificity;

(ii) the proposed ports of loading and discharge and expected dates of ocean carriage;

(iii) all parties involved in the ocean transportation of the cargoes, including brokers and freight forwarders; and

(iv) any other relevant information required by the Secretary of Transportation;

(C) provide the Maritime Administration with the Automated Commercial Environment Internal Transaction Number that corresponds with each ocean bill of lading number for each ocean shipment of cargo under contract, including those transported on foreign-flag vessels—

(i) within 20 working days after the date of loading for shipments originating in the United States;

(ii) within 30 working days after the date of loading for shipments originating outside of the United States; or

(iii) in instances for which an Automated Commercial Environment Internal Transaction Number is not available, a legible, complete copy of a rated on-board ocean bill of lading in English, within times specified in clauses (i) or (ii); and

(D) exercise contractual rights and remedies against contractors who fail to comply with contractual provisions requiring the use of U.S.-flag vessels, as determined by the Secretary of Transportation, including by—

(i) equitably adjusting the contract price downward by an amount equal to the difference in the cost of a foreign-flag vessel used in violation of the contract and the estimated cost of using a U.S.-flag vessel to carry the same cargo;

(ii) determining that a contractor is ineligible for an award of such a contract; or

(iii) terminating such a contract or suspension or debarment of the contractor for such a contract; and

(E) retain records collected pursuant to this section for 5 years after each shipment is completed.

(2) The Secretary—

[(A) shall conduct an annual review of the administration of programs determined pursuant to paragraph (1) as subject to the requirements of this section and annually submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation a report on the administration of such programs;

(B) may direct agencies to require the transportation on United States-flagged vessels of cargo shipments not otherwise subject to this section in equivalent amounts to cargo determined to have been shipped on foreign carriers in violation of this section;]

(A) has sole authority for determining compliance by a department, agency, or individual with this section;

(B) may provide guidance on whether a department or agency is operating in compliance with the requirements of this section;

(C) shall review every shipment and compliance plan subject to the requirements of this section;

(D) shall annually submit to the Committee on Transportation and Infrastructure and Committee on Armed Forces of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on department and agency compliance with this section, including submission of compliance plans;

[(C)] **(E)** may impose on any person that violates this section, or a regulation prescribed under this section, a civil penalty of not more than $25,000 for each violation willfully and knowingly committed, with each day of a continuing violation following the date of shipment to be a separate violation; and

[(D)] **(F)** *[may take other measures as appropriate under]* **shall notify agencies of violations so that other measures may be taken as appropriate under subsection (e)(1)(D) of this section or** the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 1303(a)(1)) or contract with respect to each violation.

(f) Security of Government-Impelled Cargo.—

(1) In order to ensure the safety of vessels and crewmembers transporting equipment, materials, or commodities under this section, the Secretary of Transportation shall direct each department or agency (except the Department of Defense), when responsible for the carriage of such equipment, materials, or commodities, to reimburse, subject to the availability of appropriations, the owners or operators of vessels of the United States carrying such equipment, materials, or commodities for the cost of providing armed personnel aboard such vessels if the vessels are transiting high-risk waters.

(2) In this subsection, the term "high-risk waters" means waters so designated by the Commandant of the Coast Guard in the maritime security directive issued by the Commandant and in effect on the date on which an applicable voyage begins, if the Secretary of Transportation-

(A) determines that an act of piracy occurred in the 12-month period preceding the date the voyage begins; or

(B) in such period, issued an advisory warning that an act of piracy is possible in such waters.

SEC. ___. TREATMENT OF MARITIME PROSPERITY ZONES AS OPPORTUNITY ZONES.

(a) In General.—Subchapter Z of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 1400Z–3. Treatment of maritime prosperity zones as opportunity zones.

"(a) In general.—A maritime prosperity zone shall be treated as a qualified opportunity zone.

"(b) Special rules.—In applying this subchapter to any maritime prosperity zone which is a qualified opportunity zone solely by reason of this section—

"(1) In general.—Section 1400Z–2(d) shall be applied with the modifications described in paragraph (2) for purposes of determining—

"(A) whether any property which would not be qualified opportunity zone business property without regard to this section is qualified opportunity zone business property, and

"(B) whether any corporation or partnership which is not a qualified opportunity zone business without regard to this section is a qualified opportunity zone business.

"(2) Modifications.—The modifications described in this paragraph are as follows:

"(A) Start date.—Subparagraphs (B)(i)(I), (C)(i), and (D)(i)(I) of section 1400Z–2(d)(2) shall each be applied by substituting 'the date of the enactment of this Act' for 'December 31, 2017' in the case of property acquired before January 1, 2027, or for 'the applicable date' in the case of property acquired after December 31, 2026'.

"(B) Qualified opportunity zone business property.—Property shall not be treated as qualified opportunity zone business property unless such property is substantially used:

"(i) in an industry which is assigned a code which is included in the codes described in paragraph (3); or

"(ii) for education and training for the maritime industrial base workforce.

"(C) Qualified opportunity zone business.—A trade or business shall not be treated as a qualified opportunity zone business unless such trade or business:

"(i) operates in an industry which is assigned a code described in paragraph (3), provided such activities directly support the U.S. maritime industry; or

"(ii) provides education and training of the maritime industrial base workforce.

"(3) Eligible North American Industry Classification System Codes.—The following codes under the North American Industry Classification System are the codes described in this paragraph:

"(A) 483111 (deep sea freight transportation).

"(B) 483113 (coastal and Great Lakes freight transportation).

"(C) 483211 (inland water freight transportation).

"(D) 4883 (support activities for water transportation).

"(E) 336611 (ship building and repairing).

"(F) 333923 (overhead traveling crane, hoist, and monorail system manufacturing).

"(G) 3336 (engine, turbine, and power transmission equipment manufacturing).

"(H) 334511 (search, detection, navigation, guidance, aeronautical, and nautical system and instrument manufacturing).

"(I) 541330 (engineering services).

"(J) 332 (fabricated metal product manufacturing), provided such activities directly and substantially support ship building and repair.

"(c) Maritime prosperity zone.—For purposes of this chapter—

"(1) In general.—The term 'maritime prosperity zone' means any population census tract that—

"(A) contains or is determined by the Secretary of Commerce to be a viable site for—

"(i) a shipyard or repair yard of the United States,

"(ii) a port,

"(iii) a harbor facility,

"(iv) a maritime supplier,

"(v) support construction of vessel modules, or

"(vi) maritime workforce education and training, and

"(B) is designated as a maritime prosperity zone under paragraph (2).

"(2) Designation.—

"(A) In general.—A population census tract is designated as a maritime prosperity zone under this paragraph if—

"(i) the Secretary of Commerce, in consultation with the Secretary of Homeland Security, the Secretary of the Navy, the Secretary of Transportation, and the Director of the Office of Management and Budget nominates the tract for designation as a maritime prosperity zone and notifies the Secretary, and

"(ii) the Secretary certifies such nomination and designates such tract as a qualified maritime prosperity zone.

"(B) Certification timeline.—Within 30 days beginning on the date on which notice was received under subsection (c)(2)(A)(i), subject to subsection (c)(3), the Secretary shall certify and designate as maritime prosperity zones under subsection (c)(2)(A)(ii) all nominated tracts that are described in subsection (c)(1)(A).

"(C) Geographic diversity.—In nominating maritime prosperity zones, the Secretary of Commerce shall ensure geographic representation of each—

"(i) the East Coast of the United States;

"(ii) the West Coast of the United States;

"(iii) the Great Lakes region;

"(iv) the Gulf of America region;

"(v) the Alaskan region;

"(vi) inland river regions; and

"(vii) areas in noncontiguous states and territories.

"(3) Number of population census tracts designated.—Not more than 100 population census tracts may be designated as a maritime prosperity zone.

"(4) Period for which designation is in effect.—A designation as a maritime prosperity zone shall remain in effect for the period—

"(A) beginning on the date of the designation, and

"(B) ending at the close of the 10th calendar year beginning on or after such date of designation.

"(d) Regulations.—

"(1) The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which differ from those which apply to qualified opportunity zones, qualified opportunity zone businesses, and qualified opportunity zone property as determined without regard to this section. The Secretary of Commerce may recommend to the Secretary such regulations and other guidance as the Secretary of Commerce wishes to see issued, and the Secretary shall give serious consideration to adopting such recommendations.

"(2) The Secretary of Commerce shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section regarding the nomination of tracts to be maritime prosperity zones."

(b) Clerical Amendment.—The table of sections for subchapter Z of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 1400Z–3. Treatment of maritime prosperity zones as opportunity zones."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Analysis:

This proposal aligns with Section 11 of Executive Order 14269, *Restoring America's Maritime Dominance*, by establishing new Maritime Prosperity Zones (MPZs) to incentivize and facilitate domestic and allied investment in America's maritime industries and waterfront communities. Specifically, this proposal would authorize the Secretary of Commerce, in consultation with the Secretary of Homeland Security, Secretary of Transportation, Secretary of Treasury, Secretary of the Navy, and the Director of the Office of Management and Budget, to designate a population census tract as a maritime prosperity zone. The Secretary of Commerce would be authorized to designate not more than 100 MPZs, with each MPZ designated for a period of ten years. MPZs would be required to be geographically diverse and include areas outside traditional coast shipbuilding and ship repair centers. In addition, tracts eligible for MPZ designation would contain or be a viable site for a shipyard or repair yard, a port, a harbor facility, a maritime supplier, construction of vessel modules, or maritime workforce education and training.

This proposal would decrease revenues, and the estimated effect on the deficit is:

Fiscal Years
(dollars in millions)

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Revenues	$0	$-20	$-60	$-80	$-90	$-90	$-70	$-40	$-30	$-30	$-30	$-540
Net Deficit Impact	$0	$20	$60	$80	$90	$90	$70	$40	$30	$30	$30	$540

SEC. ___. UNITED STATES VESSEL PREFERENCE REQUIREMENT.

(a) In General.—Part D of subtitle V of title 46, United States Code, is amended by inserting after subchapter III the following new subchapter:

"**SUBCHAPTER IV—UNITED STATES VESSEL PREFERENCE**

"**§ 55351. Definitions**

"In this subchapter:

"(1) Allied country.—The term 'allied country' means a country or group of countries designated by the Secretary of Defense, in consultation with the Secretary of Transportation and the Secretary of State, as an ally of the United States for purposes of this subchapter.

"(2) Beneficial cargo owner.—The term 'beneficial cargo owner' means an entity that retains the power to influence the routing of the cargo or owns the merchandise being transported at the time of shipment.

"(3) Country of concern.—The term 'country of concern' means a country identified pursuant to section 4651(7) of title 15, United States Code.

"(4) Covered cargo.—The term "covered cargo" means inbound containerized cargo and roll-on/roll-off vehicles imported into the United States in the foreign commerce of the United States that are subject to entry, manifest reporting, or other customs documentation requirements under title 19, United States Code, as further specified by the Commission by regulation. The term does not include exports, bulk cargo, breakbulk cargo, or cargo excluded by regulation consistent with this subchapter.

"(5) Industrial readiness certification.—The term 'industrial readiness certification' means a certification made by the Maritime Administrator after evaluating shipyard capacity, mariner availability, and commercial feasibility for purposes of phased implementation.

"(6) Maritime Special Security Agreement; M-SSA.—The term 'Maritime Special Security Agreement' or 'M-SSA' means an agreement established under section 55353.

"(7) Qualifying United States Vessel.—The term 'qualifying United States vessel' means a vessel documented under chapter 121 of title 46 and meeting requirements under section 55352 and not a U.S. warship, auxiliary vessel, or under time or bare-boat charter by the United States.

"(8) Trade lane.—The term 'trade lane' means a geographic shipping corridor designated by the Secretary of Transportation.

"(9) Compliance year.—The term 'compliance year' means a calendar year for which participation targets apply under section 55352, as determined under section 55354(j).

"(10) Covered movement.—The term 'covered movement' means the transportation by water of covered cargo to the United States within a designated trade lane subject to participation targets under section 55352, as determined by the Commission under section 55354 using existing customs and shipping documentation.

"(11) Covered shipper.—The term 'covered shipper' means, with respect to a covered movement, the beneficial cargo owner, importer of record to which entity-level participation targets apply under section 55352(a)(2), or provider of third-party logistics services for cargo shipments, as determined by the Commission under section 55354 using existing customs and shipping documentation. The term does not include an ocean common carrier or an ocean transportation intermediary solely by virtue of providing ocean transportation or arranging ocean transportation.

"(12) Affiliated covered shipper group.—The term 'affiliated covered shipper group' means 2 or more covered shippers that are treated as a single compliance unit because they are under common control, are alter egos, are successors, or act in concert with respect to routing, contracting, or payment for ocean transportation of covered cargo, as determined under section 55354.

"(13) Control.—The term 'control' means, with respect to an entity, direct or indirect possession of the power to direct or cause the direction of management and policies of such entity (whether through ownership of voting securities, by contract, or otherwise), and shall be presumed where an entity directly or indirectly owns 50 percent or more of the equity or voting interests.

"(14) Unique entity identifier.—The term 'unique entity identifier' means an Employer Identification Number (EIN) or such other persistent identifier as the Commission shall specify by regulation for foreign persons, including an identifier used in customs entry, manifest, or service contract documentation.

"(15) Ultimate parent entity.—The term 'ultimate parent entity' means the highest-level entity that controls a covered shipper, and that is not controlled by another entity.

"(16) Commission.—The term 'Commission' means the Federal Maritime Commission.

"(17) Ocean Common Carrier.—The term 'ocean common carrier' has the meaning given that term at section 40102(18) of this title.

"(18) Ocean Transportation Intermediary.—The term 'ocean transportation intermediary' has the meaning given that term at section 40102(20) of this title.

"(19) Service Contract.—The term 'service contract' means service contracts as set forth at section 40102(21) of this title.

"(20) Civil penalty.—A 'civil penalty' is a civil penalty under sections 41107 and 41109 of this title.

"§ 55352. Establishment of the United States Vessel Preference Requirement.

"(a) Establishment.—

"(1) In General.— The Secretary of Transportation shall establish a United States vessel cargo participation requirement applicable to the carriage of covered cargo within designated trade lanes.

"(2) Application.—Participation targets established under this section shall apply as entity-level participation requirements to each beneficial cargo owner or importer of record operating within a designated trade lane and shall be aggregated across the affiliated covered shipper group (if any) of such entity, as determined under section 55354.

"(3) Participation Targets.—Participation targets—

"(A) may be established on a trade-lane-specific and commodity-specific basis, including the inclusion or exclusion of particular commodity categories, provided that

aggregate participation meets or exceeds the minimum phase-based floors established under subsection (b); and

"(B) shall be implemented on a trade-lane-specific and, where appropriate, commodity-specific basis and shall be designed to expand participation of qualifying United States vessels in a commercially feasible, capacity-aware, and phased manner.

"(4) Rule of Construction.—Nothing in this section shall be construed to establish a uniform nationwide cargo quota or to require identical participation targets across all trade lanes or commodity categories.

"(b) Phased Implementation.—Participation targets established under this section shall be implemented through sequential phases designed to expand United States-flag participation in a commercially feasible and capacity-aware manner, as provided for in this section.

"(1) Phase I—Initial Market Entry.—

"(A) Not later than 180 days following enactment of this section, the Secretary shall establish an initial participation target of not less than 3 percent of covered cargo overall on an annual basis within designated trade lanes be carried on qualifying United States vessels, unless a lower percentage is certified as necessary due to vessel or mariner availability.

"(B) Participation targets established during this phase shall—

"(i) be in effect for a period of no less than four years upon the first day of establishment;

"(ii) be used to incentivize and facilitate re-flagging, new service entry, and contract restructuring to emphasize voluntary transition into the U.S.-flag fleet.

"(iii) be treated as a pilot period for purposes of evaluating commercial feasibility, workforce impacts, and industrial readiness; and

"(iv) be prioritized along trade lanes, as described in subsection (c), where qualifying United States vessels are already operating or can be deployed with minimal disruption to existing logistics structures.

"(2) Phase II—Capacity Expansion.— For the four years following Phase I, the Secretary shall—

"(A) increase participation targets incrementally based on fleet availability, workforce capacity, and industrial readiness as determined annually by the Maritime Administrator; and

"(B) increase participation targets by not less than 1.5 percent annually unless the Maritime Administrator makes a determination that the United States fleet or mariner workforce cannot sustain a growth rate at that level; and

"(C) establish participation targets that prioritize the use of vessels built in the United States over foreign-built vessels that have reflagged into the U.S. fleet.

"(3) Phase III—Adaptive Scaling.—Following Phase II—

"(A) the Secretary—

"(i) shall review participation targets not less than every three years; and

"(ii) may establish revised participation targets reflecting demonstrated fleet growth, shipyard output, and mariner supply.

"(B) participation targets—

"(i) may require that a percentage of covered cargo be carried only on vessels built in the United States; and

"(ii) may be trade-lane specific but vary by commodity classification; and

"(C) participation target growth shall be—

"(i) not less than 2 percent overall on an annual basis; and

"(ii) 1 percent for United States built ships unless a determination is made by the Administrator that the United States fleet or mariner workforce cannot sustain a growth rate at that level.

"(4) Annual Review and Certification.—Not less than once each year, the Maritime Administrator shall make a determination as to whether vessel capacity, mariner availability, and commercial feasibility support continuation or adjustment of participation targets.

"(A) The Maritime Administration shall provide to Congress annually a report on the targets for the succeeding fiscal year showing the growth in reflagged United States flag ships, growth in United States built ships, and the status of the overall United States flag fleet in international trade.

"(B)The Secretary may temporarily pause or modify scheduled increases upon certification of material capacity constraints.

"(5) Rule of Construction.—Nothing in this subsection shall be construed to establish a uniform nationwide cargo quota or to require identical targets across trade lanes or commodity categories.

"(c) Prioritization of Trade Lanes and Commodities.— In selecting trade lanes and commodity groupings for phased implementation under this section, the Secretary of Transportation, in concurrence with the Secretary of State, and in consultation with the Secretary of the Treasury, Secretary of Commerce, United States Trade Representative, Chairperson of the Federal Maritime Commission, and Secretary of Homeland Security, shall give priority to trade lanes and commodities that have a direct bearing on national security, supply chain resilience, or United States economic competitiveness.

"(1) Priority Considerations.—Priority considerations may include critical minerals, energy systems, defense-related cargo, strategic manufacturing inputs, and other sectors determined to be essential to national preparedness or long-term industrial capacity.

"(2) Rule of Construction.—Nothing in this subsection shall be construed to require uniform application across all trade lanes or to limit the Secretary's discretion to consider commercial feasibility, vessel availability, or workforce capacity.

"(d) Commercial Feasibility.—Trade lane targets under this section must be operationally achievable within existing commercial shipping practices and account for vessel availability, mariner supply, and contractual logistics structures.

"(e) United States content.—For purposes of this subchapter, United States content shall be measured, at the vessel level, as a percentage of the total cost of construction, conversion, repair, and refurbishment of the vessel that is attributable to labor performed in the United States and materials produced in the United States, consistent with the standards articulated in chapter 83 of title 41, United States Code. The Secretary shall prescribe by regulation methods of calculation, eligible costs, and documentation standards for certification and audit.

"(f) Equivalency Authority.—The Maritime Administrator may grant equivalencies on a per country basis where domestic industrial capacity is insufficient.

"(g) Special Rule for Containerized Commodity Classification.—

"(1) Classification.—For purposes of commodity-specific preference targets, containerized cargo shall be classified based on Customs and Border Protection-recognized shipment programs rather than the individual contents of a container.

"(2) Commodity Categories Defined.—The Secretary may define commodity categories using—

"(A) Harmonized Tariff Schedule chapter ranges or groupings recognized by U.S. Customs and Border Protection;

"(B) beneficial cargo owner program declarations or certified logistics programs; or

"(C) service contract filings or vessel service designations maintained under applicable Federal Maritime Commission or customs reporting requirements.

"(3) Measuring Compliance.—Compliance shall be measured using existing customs documentation, including bills of lading, manifest filings, or service contract identifiers, and shall not require inspection or valuation of individual goods within containers.

"(4) Mixed Merchandise.—Where containers include mixed merchandise described as general cargo, the Secretary may treat such containers as part of a designated commodity program if tendered under a qualifying contract, Harmonized Tariff Schedule grouping, or certified cargo program.

"(5) Rule of Construction.—Nothing in this subsection shall be construed to require item-level auditing of container contents beyond existing customs reporting requirements; nor shall it be construed to limit, restrict, or alter the authority of the U.S. Coast Guard or U.S. Customs and Border Protection to inspect containers and cargo for safety, security, or law enforcement purposes.

"(6) Reliance on Existing Systems.—Commodity classifications and compliance determinations under this subsection shall rely exclusively on customs declarations, service contract filings, or other reporting systems already required under Federal law, and shall not create a separate cargo classification regime.

"(h) Requirement to Protect and Share Information. - The Secretary and the Chairman of the Federal Maritime Commission shall execute an agreement to establish a formal framework for the exchange of information necessary to implement this section that protects the privacy and confidentiality rights of private parties.

"(i) National Security Condition for Qualification.—

"(1) In general.—A vessel shall not be treated as a qualifying United States vessel for purposes of this subchapter if the vessel is owned, chartered, managed, or operated by or on behalf of an entity subject to foreign ownership, control, or influence, unless such entity is operating pursuant to an approved Maritime Special Security Agreement under section 55353.

"(2) No automatic requirement for domestic entities.—Nothing in this subsection shall be construed to require a Maritime Special Security Agreement for an entity that the Maritime Administrator determines is not subject to foreign ownership, control, or influence.

"(3) Country of concern prohibition.—No vessel controlled by a citizen of a country of concern may qualify under this subchapter if such citizen holds, directly or indirectly, a

controlling interest or other disqualifying influence in the entity owning, chartering, managing, or operating the vessel, as determined under regulations issued pursuant to section 55353.

"(j) Qualifying United States vessel requirements.—

"(1) In general.—A vessel is a qualifying United States vessel for purposes of this subchapter only if the vessel is documented under chapter 121 of this title and meets the requirements of this subsection, subsection (k), and section 55353 (as applicable).

"(2) Repaired or refurbished vessels.—A U.S.-documented vessel that is repaired or refurbished may be treated as meeting the United States content thresholds under paragraph (3) if the Secretary determines that the cost of such repairs or refurbishments includes sufficient United States content under subsection (g), and if the vessel was originally built in an allied country.

"(3) United States content thresholds.—A qualifying United States vessel shall meet the following minimum United States content thresholds:

"(A) For calendar years 2027 through 2030, an allied-built vessel may qualify if the vessel is inspected, certificated, and documented consistent with section 53102(e) of this title and related Coast Guard guidance (including Navigation and Vessel Inspection Circular No. 01-13, and any successor guidance) and is operated by an entity in compliance with section 55353.

"(B) For calendar years 2031 through 2034, at least 20 percent United States content.

"(C) For calendar years 2035 through 2038, at least 30 percent United States content.

"(D) For calendar years 2039 through 2042, at least 40 percent United States content.

"(E) Beginning in calendar year 2042, at least 51 percent United States content.

"(4) Qualification extension.—Beginning in calendar year 2031, a vessel that first qualifies under this subchapter shall continue to be a qualifying United States vessel for not more than 20 years after the date the vessel is first documented under chapter 121 of this title, provided the vessel maintains at least 20 percent United States content throughout that period.

"(5) Alternate Compliance Program requirements.—Requirements unique to the Alternate Compliance Program shall not apply to an allied-built vessel described in paragraph (3)(A) unless the Coast Guard determines such requirements are strictly necessary for safety or security; however, United States-unique requirements contained in the Alternate Compliance Program U.S. Supplement are otherwise waived for eligible vessels.

"(6) Coastwise trade.—Nothing in this subchapter shall be construed to alter or supersede the requirements of chapter 551 of this title (the coastwise trade laws). Qualifying United States vessels under this subchapter are intended for foreign commerce under United States registry and are not granted coastwise trading privileges by this subchapter.

"(7) Expansion to meet national security needs.—The President may expand the types of cargo subject to this subchapter if the President determines such expansion is necessary to meet the national security needs of the United States, provided that any cargo so added is afforded the same phased implementation and United States content requirements for qualifying vessels specified in this section.

"(k) Rule of construction.—Nothing in this section shall be construed to—

"(1) impose a uniform nationwide cargo quota or to require preference targets to apply across all trade lanes or cargo categories

"(2) waive or modify vessel documentation, inspection, certification, safety, security, or vessel-to-facility interface requirements administered by the Coast Guard or the Department of Labor;

"(3) deem any person or entity a citizen of the United States for purposes of this title, including chapter 121, except for the limited deeming described in subsection (j); or

"(4) limit any other national security review authority of the United States.

"§ 55353. Maritime Special Security Agreement framework

"(a) Establishment.—Not later than 180 days after the date of enactment of this subchapter, the Secretary of Transportation in consultation with the Secretary of Defense and the Secretary of Homeland Security (including the Commandant of the Coast Guard), shall establish by regulation a Maritime Special Security Agreement framework (in this section referred to as an 'M-SSA'), modeled on foreign-ownership, control, or influence mitigation agreements used in national-security sectors, to permit allied and other foreign capital investment while ensuring United States operational control and protection of security-sensitive information.

"(b) Purpose; parties; covered entities.—

"(1) Purpose.—An M-SSA is a written agreement intended to mitigate foreign ownership, control, or influence and to ensure that management and operational control over qualifying United States vessel operations under this subchapter remain vested in United States citizens, consistent with national security requirements.

"(2) Parties.—An M-SSA shall be executed between the Maritime Administrator and a vessel owner, vessel operator, or other entity that seeks to own, charter, manage, or operate a qualifying United States vessel under this subchapter (in this section referred to as a 'covered entity').

"(3) Scope of application.—An M-SSA shall apply only to the covered entity and the qualifying United States vessels and related operations identified in the agreement.

"(c) Eligibility; prohibited capital.—The Maritime Administrator may approve an M-SSA only if—

"(1) the covered entity certifies that no citizen from a country of concern holds, directly or indirectly, a controlling interest or other disqualifying influence, as determined under regulations issued pursuant to subsection (j);

"(2) the covered entity agrees to comply with the governance, operational-control, information-security, reporting, and audit requirements of this section; and

"(3) the Maritime Administrator has consulted with the Secretary of Defense and the Secretary of Homeland Security regarding any national security conditions that should be incorporated into the M-SSA.

"(d) Core requirements.—A covered entity operating under an M-SSA shall—

"(1) maintain a principal executive responsible for qualifying United States vessel operations who is a citizen of the United States;

"(2) ensure that qualifying United States vessel operations under this subchapter remain subject to governance and operational-control arrangements vested in citizens of the United States, as specified in the M-SSA;

"(3) establish a security committee or comparable governance mechanism composed solely of citizens of the United States to oversee security-sensitive decisions identified in the M-SSA;

"(4) implement information firewalls restricting foreign access to sensitive operational, logistics, and defense-related data, consistent with subsection (f); and

"(5) designate one or more compliance officers responsible for administration of the M-SSA who are citizens of the United States and eligible for any security clearances determined appropriate by the Secretary of Defense for purposes of the M-SSA.

"(e) Security committee or equivalent governance mechanism.—

"(1) Composition.—The security committee or equivalent governance mechanism required under subsection (d)(3) shall consist solely of citizens of the United States.

"(2) Authorities.—The security committee or equivalent governance mechanism shall exercise such approval, oversight, or veto authorities over security-sensitive decisions as are specified by regulation and in the applicable M-SSA, including with respect to—

"(A) access to and dissemination of security-sensitive operational, cargo, routing, or defense-related information;

"(B) changes in key personnel positions identified in the M-SSA;

"(C) changes in ownership, governance, financing, chartering, or other arrangements that could increase foreign ownership, control, or influence; and

"(D) such other matters as the Maritime Administrator determines necessary to mitigate national security risk, in consultation with the Secretary of Defense and the Secretary of Homeland Security.

"(3) Governance instruments.—The covered entity shall adopt bylaws, delegations of authority, internal controls, and other governance instruments sufficient to give effect to the authorities required under this subsection.

"(f) Information firewall; recordkeeping.—

"(1) Firewall.—Each covered entity operating under an M-SSA shall maintain policies, technical controls, and procedures that prevent unauthorized foreign access to security-sensitive operational and defense-related information, including through remote access or third-party service providers.

"(2) Records.—The covered entity shall maintain such books, records, and technical logs as the Maritime Administrator determines necessary to verify compliance, including records sufficient to support audits under subsection (h).

"(g) Notice of change; prior approval.—A covered entity operating under an M-SSA shall provide advance notice to the Maritime Administrator of any material change in ownership, governance, debt covenants, chartering arrangements, or other relationships that could reasonably increase foreign ownership, control, or influence, and shall obtain approval or amended M-SSA terms prior to implementing such change, as provided by regulation.

"(h) Oversight.—

"(1) In general.—The Maritime Administrator, in coordination with the Secretary of Defense and the Secretary of Homeland Security, shall approve, audit, and monitor covered entities operating under an M-SSA at least annually.

"(2) Coast Guard and Department of Labor coordination.—In conducting oversight under paragraph (1), the Maritime Administrator shall coordinate with the Commandant of the Coast Guard on matters implicating vessel documentation, inspection, certification, safety, security, crewing, or credentialing requirements administered by the Coast Guard and the Department of Labor on matters implicating safety requirements administered by the Department of Labor.

"(i) Breach of terms; remedies.—

"(1) Suspension or revocation.—Breach of M-SSA terms, or material misrepresentation in an application for or performance under an M-SSA, shall be grounds for suspension or revocation of—

"(A) M-SSA approval; and

"(B) the eligibility of any vessel operated by the covered entity to qualify under section 55352.

"(2) Interim measures.—Pending a final determination, the Maritime Administrator may impose interim mitigation measures, including enhanced reporting, restricted information access, or temporary management controls.

"(j) Deeming provision; limited scope.—For the limited purpose of administering this subchapter and any Federal cargo-preference program that expressly incorporates this deeming provision, an entity operating under an approved M-SSA shall be deemed United States-controlled regardless of capital origin, provided such capital is not from a country of concern. Nothing in this subsection shall be construed to confer coastwise trading privileges or to alter any requirement under chapter 551 of this title or any other law governing coastwise trade.

"(k) Regulations.—The Secretary of Transportation shall promulgate regulations to carry out this section, including—

"(1) definitions of 'control', 'disqualifying influence', and 'security-sensitive decisions';

"(2) minimum required authorities and procedures for the security committee or equivalent governance mechanism required under subsection (e);

"(3) audit standards, reporting requirements, and confidentiality protections for sensitive security information; and

"(4) procedures for expedited review where necessary to support timely implementation of section 55352(l)(3)(A).

"(l) Rule of construction.—Nothing in this section shall be construed to—

"(1) waive or modify vessel documentation, inspection, certification, safety, or security requirements administered by the Coast Guard or the Department of Labor;

"(2) deem any person or entity a citizen of the United States for purposes of this title, including chapter 121, except for the limited deeming described in subsection (j); or

"(3) limit any other national security review authority of the United States.

"§ 55354. Enforcement And Compliance

“(a) Administration By Federal Maritime Commission.—

“(1) In General.—The Federal Maritime Commission shall administer and enforce this subchapter, including participation targets and any penalties for non-participation established under this subchapter.

“(2) Regulations.—Not later than one year after the date of enactment of this subchapter, the Commission shall prescribe implementing regulations pursuant to section 46105. Such regulations and final orders under this section shall be treated as issued pursuant to section 46105 for purposes of chapter 158 of title 28.

“(3) Preservation Of Vessel Qualification Determinations.—The Secretary of Transportation, in consultation with the U.S Trade Representative and Secretary of Commerce, shall retain authority to determine whether a vessel is a qualifying United States vessel (including any determinations involving a Maritime Special Security Agreement or similar mitigation arrangement). The Commission shall accept such determinations as conclusive for purposes of this subchapter. Such determinations shall be made in accordance with sections 55351, 55352, and 55353.

“(b) Shipper-Level Compliance Duty.—

“(1) Requirement.—Each covered shipper, and each affiliated covered shipper group, shall ensure that its covered movements satisfy the applicable participation targets under this subchapter for each compliance year, as determined by the Commission. The Commission may determine, by regulation or order, to exempt low volume shippers from the requirements of this section if the Commission finds that such exemption will not result in a substantial impact on participation targets.

“(2) No Liability For Qualifying U.S. Vessel Movements.—A covered movement transported on a qualifying United States vessel shall be treated as compliant and shall not give rise to a non-participation assessment.

“(3) Measurement And Aggregation.—Compliance shall be measured using existing customs documentation systems and shall be aggregated across each affiliated covered shipper group.

“(c) Annual Certification; Disclosure.—

“(1) Certification.—Not later than a date set by regulation (not later than 120 days after the close of each compliance year), each covered shipper shall file with the Commission an annual certification, in such form as the Commission shall prescribe, including—

“(A) the unique entity identifier of the covered shipper;

“(B) the identity and unique entity identifier of the ultimate parent entity;

“(C) a list of affiliated entities sufficient to identify the affiliated covered shipper group;

“(D) an attestation by a responsible corporate officer, under penalty of perjury, regarding completeness and accuracy; and

“(E) such shipment-level or aggregated data elements as are necessary to verify compliance using existing customs and shipping documentation.

“(2) Updates.—The Commission may require prompt updates upon changes in ultimate parent entity or control.

"(3) Confidentiality.—Information submitted under this subsection shall be protected as commercial or financial information to the extent permitted by law; the Commission may publish only aggregated, non-confidential compliance statistics.

"(d) Verification; Interagency Coordination.—

"(1) Customs Integration.—The Commission shall verify compliance using existing customs documentation, including vessel manifest and cargo declaration information and entry data, without creating a new cargo classification regime.

"(2) Coordination.—Not later than 180 days after enactment, the Commission shall enter into memoranda of understanding, as appropriate, with U.S. Customs and Border Protection, the Department of Transportation, the Department of Homeland Security, and the Department of the Treasury to support data access, verification, and collection.

"(3) Audit; Records.—The Commission may audit covered shippers and affiliated covered shipper groups for purposes of this section and may require retention and production of records sufficient to substantiate certifications.

"(e) Penalties For Non-Participation.—

"(1) Imposition.—If the Commission determines, after notice and opportunity for hearing, that a covered shipper or affiliated covered shipper group failed to satisfy applicable participation targets for a compliance year, the Commission shall impose civil penalties equal to not less than 10 percent of the value of the shipper or shipper group's incoming cargo to the United States in the period of non-compliance.

"(2) No Credit For Non-Compliance.—Payment of an assessment under this subsection shall not satisfy, offset, or reduce any participation target applicable in a subsequent compliance year.

"(3) Nature Of Assessment.—An assessment under this subsection is a civil monetary assessment and is in addition to any other civil penalty, customs duty, tax, fee, or remedy available under this subchapter or any other provision of law.

"(4) Exclusion Of Compliant Movements.—Covered movements transported on qualifying United States vessels shall not be included in calculating an assessment under this subsection.

"(5) Delinquency; Release Of Cargo.—After a final order finding repeated delinquency or evasion, the Commission may require, as a condition of release of additional covered cargo of the covered shipper or affiliated covered shipper group, the posting of payment security in a form acceptable to the Commission and the Secretary of the Treasury, including a surety bond, letter of credit, or cash deposit.

"(6) Escalation.—The Commission may impose additional penalties for repeated non-participation, evasion, or delinquency, including increased civil monetary penalties, shortened cure periods, and payment-security requirements under subsection (g).

"(7) Regulations.—The Commission shall prescribe regulations governing calculation, notice, collection, and mitigation of assessments under this subsection, but may not reduce the statutory minimum percentages established in paragraph (1).

"(f) Waiver Of Adjustment.—The Secretary of Transportation may recommend waivers or reductions of assessments where compliance will materially disrupt critical supply chains during an ongoing national emergency as declared by the President.

“(g) Civil Penalties; False Statements.—

“(1) In General.—A person that violates this subchapter or a regulation or order of the Commission under this subchapter, including failure to file a certification, filing of a materially false certification, concealment of covered movements, willful misrepresentation, or evasion, is liable to the United States Government for a civil penalty not to exceed—

“(A) $100,000 for each violation; and

“(B) $250,000 for each violation that is willfully and knowingly committed.

“(2) Continuing Violations.—Each day of a continuing violation after written notice from the Commission shall constitute a separate violation.

“(3) Separate Offenses.—Each false material statement, each material omission, each failure to certify, each concealed covered movement, each use of a successor or affiliate to evade this subchapter, and each failure to comply with a payment-security requirement may constitute a separate violation.

“(4) Procedures.—The Commission shall provide notice and opportunity for hearing prior to issuance of a final order assessing a penalty or assessment. The Commission may seek injunctive relief under section 41307 of this title in connection with an investigation of alleged violations of this subchapter or a regulation or order of the Commission.

“(5) Customs Penalties Preserved.—Nothing in this section shall be construed to limit the authority of United States Customs and Border Protection to take action under title 19 against any person that makes or causes to be made a materially false statement, act, or omission in customs-related documentation to evade or defeat this subchapter, including under section 1592 of title 19.

“(6) Seizure And Forfeiture.—Covered cargo introduced into the commerce of the United States through a material false statement, act, or omission to evade or defeat this subchapter is subject to seizure and forfeiture under applicable customs laws.

“(h) Anti-Evasion; Attribution; Successor And Alter-Ego; Payment Security.—

“(1) Aggregation Across Affiliates.—The Commission shall attribute covered movements and aggregate compliance across affiliated covered shipper groups, including common-control affiliates and persons acting in concert in routing, contracting, or payment.

“(2) Attribution Rules.—The Commission shall by regulation prescribe rules to attribute covered movements using existing customs and shipping documentation, including service contract, bill of lading, and manifest/entry data elements, to the covered shipper and affiliated covered shipper group most directly benefiting from, directing, or controlling such movements.

“(3) Rebuttable Presumptions.—The Commission shall establish rebuttable presumptions that—

“(A) movements are attributable to the entity identified as the account party/cargo owner in customs and shipping documentation;

“(B) movements of a newly formed or thinly capitalized entity with substantially common ownership, management, address, or logistics operations with a covered shipper are attributable to the affiliated covered shipper group; and

“(C) a person that materially reorganizes after notice of investigation acts to evade unless proven otherwise by clear and convincing evidence.

"(D) a covered movement routed through an intermediate foreign port or third country shall not be excluded from a designated trade lane solely by virtue of such intermediate routing, and may be attributed and treated as occurring within the designated trade lane based on the shipment's underlying origin, consignee, and account-party information in existing customs and shipping documentation, as specified by regulation.

"(4) Successor; Alter-Ego.—The Commission may treat a person as a successor or alter ego of another person for purposes of liability for assessments, penalties, and payment security where there is substantial continuity of ownership, management, operations, assets, or purpose, or where the transaction or formation had a principal purpose of evasion. Liability may be joint and several within an affiliated covered shipper group.

"(5) Payment Security For Repeat Evasion Or Delinquency.—After a final order finding repeated evasion or delinquency, the Commission may require a covered shipper or affiliated covered shipper group to post and maintain reasonable payment security (including surety bond, letter of credit, or cash deposit) to secure future assessments and penalties for a period not to exceed 2 years, renewable upon a new finding after notice and opportunity for hearing. This paragraph shall not be construed to establish a general licensing regime.

"(6) No Avoidance By Restructuring.—The Commission may disregard any corporate form, transfer, conversion, assignment, spin-off, merger, dissolution, reincorporation, change in importer of record, change in beneficial cargo owner designation, change in service-contract party, or other restructuring the principal purpose or material effect of which is to avoid compliance with, attribution under, or liability arising under this subchapter.

"(7) Joint And Several Liability Of Controlling Persons.—Where the Commission finds that a predecessor, successor, affiliate, beneficial owner, ultimate parent entity, or controlling person participated in, directed, benefited from, or knowingly facilitated conduct described in paragraph (6), the Commission may impose joint and several liability on such person for assessments, penalties, interest, and payment-security obligations under this subchapter.

"(8) Control At Less Than Majority Ownership.—For purposes of this subsection, the Commission may find control notwithstanding section 55351(13) at any ownership level, or through contractual, financial, operational, family, agency, or other relationships, where the facts demonstrate the power to direct routing, contracting, payment, or corporate conduct relating to covered movements.

"(i) Limited Carrier Liability; Cooperation.—

"(1) No Carrier Compliance Duty.—An ocean common carrier or ocean transportation intermediary, including a non-vessel-operating common carrier, shall not be responsible for a covered shipper's participation targets or assessments solely by transporting or arranging the transportation of covered cargo.

"(2) Recordkeeping And Production.—Ocean common carriers and ocean transportation intermediaries shall, as specified by regulation, retain and produce records reasonably necessary to support verification; failure to maintain or produce records, or knowing submission of false records, may be penalized under subsection (f).

"(j) Transition; Effective Date.—

"(1) Initial Compliance Year.—The first compliance year shall begin on the first January 1 that occurs not less than 1 year after the date the Commission issues final regulations under subsection (a)(2), unless otherwise specified by statute.

"(2) Safe Harbor.—For the first compliance year only, the Commission shall provide a good-faith safe harbor for covered shippers that timely file complete certifications and enter into commercially reasonable arrangements to meet targets, as defined by regulation.".

(b) Interagency Steering Body.—The Secretary, in consultation with the Secretary of Treasury, Secretary of State, Secretary of Defense, Secretary of Commerce, Secretary of Labor, United States Trade Representative, and Chairman of the Federal Maritime Commission, conduct periodic reviews to evaluate fleet growth, workforce capacity, industrial impacts, and compliance effectiveness.

(c) Domestic Repair Utilization.

(1) Findings.—

(A) Congress finds that the United States ship repair sector constitutes a distinct and strategically critical component of the maritime industrial base and shall not be treated as merely an extension of ship construction.

(B) Domestic repair capacity supports routine operational readiness of United States naval forces, sustains commercial fleet availability during peacetime operations, and will be essential to maintaining maritime logistics and sealift capability during periods of contingency, mobilization, prolonged contested logistics operations, or contested operations.

(C) Strengthening the ship repair sector represents the most immediate and scalable means of restoring industrial depth because it leverages the existing fleet and workforce rather than future vessel construction pipelines.

(2) Domestic Repair Utilization.—Chapter 531 of title 46, United States Code, is amended by adding at the end the following new section 53112:

"§ 53112. Domestic Repair Utilization.

"(a) Domestic Maintenance and Repair Requirement.—Beginning not later than 3 years after enactment of this section, Qualified United States Vessels subject to an operating agreement under this chapter must have a percentage of maintenance and repair, as determined by cost, on the vessel conducted in United States shipyards, subject to a determination by the Maritime Administrator of sufficient shipyard capacity.

"(1) Maintenance and Repair Targets.—The Secretary of Transportation shall establish a target of not less than 10 percent of total maintenance and repair expenditures to be performed in United States shipyards, increasing annually by not less than 5 percent, unless the Maritime Administrator determines that available yard capacity, scheduling constraints, or operational readiness considerations warrant adjustment.

"(2) Implementation.—In implementing this section, the Secretary shall ensure that—

"(A) requirements remain subject to verified shipyard capacity, workforce availability, and operational schedules;

"(B) enhanced domestic repair utilization strengthens workforce continuity, preserves critical maintenance skills, and improves surge sustainment capability supporting national defense; and

"(C) implementation relies on existing contracting structures and avoids creation of duplicative regulatory regimes.

"(3) Rule of Construction.—Nothing in this section shall be construed to interfere with the normal flow of commerce or disrupt commercially necessary maintenance cycles.

"(4) Cost Offsets.—To offset commercially reasonable cost differentials associated with increased domestic repair activity, the Secretary may—

"(A) subject to the availability of appropriations, adjust stipend amounts paid under vessel operating agreements; and

"(B) with the concurrence of the Secretary of Defense, allow surcharges to be placed on certain contracts.

"(5) The Secretary of Transportation may grant waivers or temporary deviations if—

"(A) compliance is not commercially feasible;

"(B) compliance would materially disrupt logistics operations; or

"(C) domestic yard capacity is unavailable.".

(3) Clerical Amendment.—The table of sections for chapter 531 of subtitle V of title 46, United States Code, is amended by adding at the end the following new item:

"53112. Domestic Repair Utilization.".

(d) Maritime Workforce Development.

(1) Maritime Workforce National Center of Expertise.—The Secretary of Transportation, in coordination with the Commandant of the Coast Guard and the Secretaries of Labor, Homeland Security, and Defense, shall establish a "Maritime Workforce National Center of Expertise" (the "Center"). The Center shall serve as a national repository of best practices and provide training, technical assistance, and curriculum development support to maritime academies, trade schools, unions, and other training providers.

(2) Functions of Center.—The Center shall develop model curricula for mariner and shipbuilding training, expand simulator training capacity, support the development and expansion of registered apprenticeship programs (RAPS) in shipbuilding occupations and pre-apprenticeship programs that lead to such RAPs, and disseminate proven practices to universities, career and technical schools, and high schools nationwide. The Center shall make recommendations to the Secretaries of Transportation and Labor, and through the Secretaries to Congress, on expanding United States mariner training programs and shipbuilding workforce development.

(3) Mariner Training Financing Plan.—Within 180 days of enactment, the Secretary of Labor and the Secretary of Transportation shall jointly develop plans to maximize the use of federal workforce development and education funds, including Pell, Workforce Pell, JobCorps, WIOA Adult, WIOA Dislocated Worker, and WIOA Youth, Apprenticeship, YouthBuild, and Reentry Employment Opportunities.

(4) Review of Credentialing Requirements.—The Commandant of the Coast Guard, in consultation with industry representatives, labor unions, and maritime training institutions, shall review merchant mariner credentialing and training requirements and submit to

Congress recommendations to streamline and accelerate training approval and credential issuance, while maintaining safety standards.

(5) International Training Partnerships.—The Secretary of State shall prioritize shipbuilding and mariner training in the Department of State's educational and cultural exchange programs, in order to strengthen the United States maritime workforce and share best practices with allied nations.

(6) Consultation.—In carrying out this subsection, the Secretary shall consult with maritime labor organizations, industry, State maritime academies, and other training providers.

(7) Rule of construction.—Nothing in this subsection shall be construed to alter the authorities of the Coast Guard with respect to credentialing, safety, or enforcement.

(e) General Rules of Construction.

(1) No Effect on Coastwise Trade Laws.—Nothing in this section or the amendments made by this section shall be construed to alter, amend, waive, or supersede chapter 551 of title 46, United States Code, or any other law governing coastwise trade.

(2) Preservation of Other Authorities.—Nothing in this section or the amendments made by this section shall be construed to limit any authority otherwise available under law to the Federal Maritime Commission, the Department of Transportation, the Maritime Administration, the Coast Guard, the Department of Homeland Security, U.S. Customs and Border Protection, the Department of the Treasury, or the Department of Justice.

(3) No Private Right of Action.—Nothing in this section or the amendments made by this section shall be construed to create a private right of action.

(4) Severability.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be invalid, the remainder of this section, the amendments made by this section, and the application of such provisions and amendments to any other person or circumstance shall not be affected thereby.

Section-by-Section Summary:

Subsection (a)

Subsection (a) would create a new subchapter IV in part D of subtitle V of title 46 of the U.S. Code to create a U.S. vessel preference for imported goods.

§ 55351. Definitions.
§ 55352. Establishment of the United States Vessel Preference Requirement.
§ 55353. Maritime Special Security Agreement Framework.
§ 55354. Enforcement and Compliance.

§ 55351. Definitions. This section includes the definitions applicable in the new subchapter V. Key definitions include:

- Beneficial cargo owner— means an entity that retains the power to influence the routing of the cargo or owns the merchandise being transported at the time of shipment.
- Covered cargo— means inbound containerized cargo and roll-on/roll-off vehicles imported into the United States all merchandise transported by water in the foreign commerce of the United States that is are subject to entry, export filing, or manifest reporting, or other customs documentation requirements under title 19, United States Code, including imports and exports, whether containerized or non-containerized as further specified by the Commission by regulation. The term does not include exports, bulk cargo, breakbulk cargo, or cargo excluded by regulation consistent with this subchapter.
- Trade lane— means a geographic shipping corridor designated by the Secretary of Transportation.

§ 55352. Establishment of the United States Vessel Preference Requirement. This section would:

- Establish a U.S. vessel preference cargo participation requirement applicable to the carriage of covered cargo within designated trade lanes.
    - The preference cargo participation target is a percentage of covered cargo that must be carried on U.S.-flag vessels within a designated trade lane.
    - The required participation targets would apply to each beneficial cargo owner or importer of record operating within a designated trade lane.
    - The targets would be established based on trade lanes and would be, where appropriate, commodity specific.
    - The President may expand the types of cargo subject to this subchapter if the President determines such expansion is necessary to meet national security needs.
- Phased Implementation
    - Phase I:
        - Not later than 180 days after enactment, the Secretary of Transportation shall establish a participation target of three percent of covered cargo within designated trade lanes be carried on qualifying United States vessels, unless a lower percentage is certified as necessary due to vessel or mariner availability. This phase would last four years.
        - Priority would be given to trade lanes in which qualifying United States vessels are already operating or can be deployed with minimal disruption to existing logistics structures.
    - Phase II:
        - The Secretary would increase participation targets incrementally targets by not less than 1.5 percent annually unless the Maritime Administrator

determines that the U. S.-flag fleet or mariner workforce cannot sustain a growth rate at that level.
        - Priority would be given to the use of vessels built in the U. S. over foreign-built vessels that have reflagged into the U.S.-flag fleet.
    - Phase III:
        - Participation targets reviewed not less than every three years.
        - In determining participation targets, the Secretary may:
            - Require that a certain percentage of covered cargo be carried only on U.S.-built vessels.
            - Establish trade lane specific participation targets.
        - The Secretary shall annually increase participation targets by at least two percent overall, and by one percent for U.S.-built vessels, unless MARAD determines that the U.S. fleet or workforce cannot sustain such growth.
    - Annual review: Not less than once per year MARAD shall determine whether vessel capacity, mariner availability and commercial feasibility support continuation or adjustment of participation targets.
- Prioritization of trade lanes and commodities: In selecting trade lanes and commodity groupings for phased implementation, the Secretary of Transportation, in concurrence with the Secretary of State, and in consultation with the Secretary of the Treasury, Secretary of Commerce, U. S. Trade Representative, Chairperson of the Federal Maritime Commission, and Secretary of Homeland Security, shall give priority to trade lanes and commodities that have a direct bearing on national security, supply chain resilience, or United States economic competitiveness.
- Equivalency Authority: The Maritime Administrator may grant equivalencies on a per country basis where domestic industrial capacity is insufficient.
- Containerized commodity classification would rely on existing reporting systems required under Federal law. Compliance determinations would be made using existing customs documentation, including bills of lading, manifest filings, or service contract identifiers, but would not require inspection or valuation of individual goods within containers.
- National Security Conditions: Vessels owned, chartered, managed, or operated on behalf of an entity subject to foreign ownership or control, shall not be considered a qualifying vessel under this section, unless such entity is operating pursuant to an approved Maritime Special Security Agreement described in this section
- Qualifying U.S. vessel requirements.
    - Must be documented under chapter 121 and meet the requirements of section 55353.
    - U.S. content thresholds.
        - For 2027 through 2030, allied-built vessels would be allowed if they are reflagged under the U.S. registry and are operated by a company with a "Maritime Special Security Agreement."
    - For 2031 through 2042, qualified vessels would include vessels with a percentage of U.S. content—20 percent in 2031 and increasing to 51 percent by 2042.

- A vessel would continue to be considered a qualified vessel for not more than 20 years after the date the vessel is first documented under chapter 121 of this title, provided the vessel maintains at least 20 percent United States content through that period.

§ 55353. Maritime Special Security Agreement framework. This section would:

- Establish the Maritime Special Security Agreement (M-SSA).
  - Requires DOT, in consultation with DHS and DOW, to establish an M-SSA framework modeled on foreign-ownership, control, or influence mitigation agreements used in national-security sectors to permit allied and other foreign capital investment while ensuring operational control.
  - Agreements would be between MARAD and a vessel owner, vessel operator or other entity that seeks to own, manage, charter, or operate a qualifying vessel.
  - Allows approval of an M-SSA only if the covered entity certifies that no citizen from a county of concern holds a controlling interest in the entity and agrees to comply with reporting and auditing requirements.
  - Establishes requirements for a covered entity operating under an M-SSA, including ensuring that qualifying U.S. vessel operations are subject to control arrangements vested in U.S. citizens.
  - Requires approval oversight of security-sensitive decisions to be governed by a security committee composed solely of U.S. citizens.
  - Requires a covered entity operating under an M-SSA to maintain policies, controls, and procedures that prevent unauthorized foreign access to security-sensitive operational and defense-related information.
  - Requires notice to MARAD of any change in ownership or governance.
  - Requires MARAD, in coordination with DOW and DHS, to approve, audit, and monitor covered entities operating under an M-SSA annually.

§ 55354. Enforcement and Compliance.

- Would authorize the Federal Maritime Commission (FMC) to administer and enforce participation targets and penalties under this chapter.
- DOT would determine whether a vessel is a qualifying vessel under this subchapter.
- FMC may exempt low volume shippers from the requirements of this section.
- Compliance would be measured using existing customs documentation systems and be aggregated across each affiliated covered shipper group.
- Covered shippers would be required to file annual compliance certifications. Collected data would be shared between FMC, DOT, DHS, and Treasury.
- Civil penalties for non-participation.
  - Upon a determination of non-compliance after notice and opportunity to be heard, FMC shall impose on the covered shipper a civil penalty equal to not less than ten

percent of the value of cargo incoming to the U.S. during the period of non-compliance.
    - After a final order finding repeated delinquency or evasion, FMC may require, as a condition of release of additional covered cargo of the covered shipper or affiliated covered shipper group, the posting of payment security, including a surety bond, letter of credit, or cash deposit.
    - FMC may impose additional penalties for repeated non-participation, evasion, or delinquency.
- DOT may waive or reduce assessments if compliance will materially disrupt critical supply chains during an ongoing declared emergency.
- Civil penalties for false statements.
    - $100,000 for each violation
    - $250,000 for each violation that is willful and knowingly committed.
    - Each day of a continuing violation after written notice from the FMS shall constitute a separate violation.
    - Notice and opportunity to be heard required before FMC finding.
- Anti-evasion, attribution, successor and alter-ego payment security.
    - FMC shall by prescribed rules attribute covered movements using existing customs and shipping documentation, including service contract, bill of lading, and manifest/entry data elements, to the covered shipper and affiliated covered shipper group most directly benefiting from, directing, or controlling such movements.
    - Rebuttable presumptions.
        - Cargo movements are attributable to the entity identified as the account party/cargo owner in customs and shipping documentation.
        - Cargo movements by a newly formed or thinly capitalized entity with substantially common ownership, management, address, or logistics operations with a covered shipper are attributable to the affiliated covered shipper group.
        - A person that materially reorganizes after notice of investigation acts to evade unless proven otherwise by clear and convincing evidence.
        - A covered movement routed through an intermediate foreign port or third country shall not be excluded from a designated trade lane solely by virtue of such intermediate routing, and may be attributed and treated as occurring within the designated trade lane based on the shipment's underlying origin, consignee, and account-party information in existing customs and shipping documentation, as specified by regulation.
    - Repeated evasion or delinquency could result in FMC requiring a covered shipper or affiliate to post a security for future assessment of penalties.
    - No avoidance by restructuring: FMC may disregard any corporate form, transfer, conversion, assignment, spin-off, merger, dissolution, reincorporation, change in importer of record, change in beneficial cargo owner designation, change in service-contract party, or other restructuring the principal purpose or material

effect of which is to avoid compliance with, attribution under, or liability arising under this subchapter.
    - Joint and several liability applies.
    - An ocean common carrier or ocean transportation intermediary, including a non-vessel-operating common carrier, shall not be responsible for a covered shipper's participation targets or assessments solely by transporting or arranging the transportation of covered cargo.

Subsection (b)

Interagency Steering Body: DOT, in consultation with the Treasury, State, DOW, DOC, DOL, USTR, and FMC would establish an interagency steering body to conduct periodic reviews to evaluate fleet growth, workforce capacity, industrial impacts, and compliance effectiveness.

Subsection (c)

This subsection would amend the Maritime Security Program (MSP) authorization to add a requirement that vessels in the MSP must have a percentage of vessel maintenance and repair conducted in U.S. shipyards. It would require an initial target of ten percent, increasing by five percent annually, subject to shipyard capacity. To address cost differentials, DOT may adjust stipend amounts or allow surcharges on Universal Services Contract freight rates. DOT may also waive this requirement if compliance is not feasible or would materially disrupt logistics operations.

Subsection (d)

This subsection would require:

- DOT, in coordination with DOW, DOL, and DHS, to establish a "Maritime Workforce National Center of Expertise" to serve as a repository of best practices and provide training, technical assistance, and curriculum development to support maritime academies, trade schools, unions, and other training providers.
- DOL and DOT to jointly develop plans to maximize the use of Federal workforce development and education funds.
- USCG, in consultation with industry representatives, labor unions, and maritime training institutions, to review merchant mariner credentialing and training requirements and submit to Congress recommendations to streamline and accelerate training approval and credential issuance, while maintaining safety standards.
- Department of State to prioritize shipbuilding and mariner training in their education and cultural exchange programs, to strengthen our domestic maritime workforce and share best practices with allied nations.

Subsection (e)

This subsection contains provisions making clear that this proposal does not affect existing legal authorities or create private rights of action.

APPENDIX A

SEC. ___. CARGO PREFERENCE ENFORCEMENT.

Section-by-Section Analysis:

This section-by-section analysis provides additional details regarding the specific changes this proposal would make to the current statute.

Subsection (a)(1):

The proposal amends 46 U.S.C. § 55305(a) by—

- increasing the amount of Federal civilian cargo that must be transported on U.S.-flag vessels from 50 to 100 percent; and
- deleting a requirement that cargo be shipped on U.S.-flag vessels to the extent the vessels are available at fair and reasonable rates and in a manner that will ensure participation by vessels by geographic region.

100 percent requirement—Currently, subsection (a) requires at least 50 percent of Federal civilian agency cargo to be transported on privately-owned, U.S-flag commercial vessels. This proposal would amend subsection (a) to require 100 percent of such cargo to be transported on U.S.-flag vessels. It includes an exception to the 100 percent requirement when needed to transport cargo under the Foreign Assistance Act of 1961. The goal of increasing the requirement from 50 to 100 percent is to provide U.S.-flag vessel owners and operators access to more cargo, which is needed for them to remain competitive and operating under the U.S. flag in international trade. In addition, a 100 percent requirement would make it easier for MARAD and affected agencies to evaluate compliance. It would facilitate securing U.S.-flag vessels prior to shipment and eliminate the current inefficient process of gathering and analyzing the data required to make percentage-based minimum calculations to determine compliance. Recognizing there may be circumstances when U.S.-flag vessels may not be available to transport government-impelled cargo, this proposal also amends the emergency waiver provision set forth in 46 U.S.C. § 55305(d), as discussed in detail below, to permit the Secretary of Transportation to waive the proposed 100-percent requirement when MARAD determines that there are no vessels available.

Fair and reasonable rates—Currently, subsection (a) requires civilian agency cargo to be transported on U.S.-flag vessels "to the extent those vessels are available at fair and reasonable rates for commercial vessels of the United States, in a manner that will ensure a fair and reasonable participation of commercial vessels of the United States in those cargoes by geographic areas." This proposal would delete this language and eliminate labor-intensive and

disputed agency-by-agency determinations of availability-based factors such as type of vessel and geographic region. These disputes exist because, as currently written, the statute is not clear which agency has the authority to determine the availability of vessels. In practice, an agency may determine whether vessels are available at "fair and reasonable rates" and what is considered a "geographic region" without consulting MARAD or MARAD's cargo preference regulations under 46 CFR part 381.

As discussed below, this proposal would move the existing fair and reasonable language from subsection (a) to subsection (d). The intent is to make clear that MARAD has the sole authority, upon request of an agency, to waive the cargo preference requirement in subsection (a) prior to the transportation of government-impelled cargo if MARAD determines U.S.-flag vessels are unavailable to transport government-impelled cargo at fair and reasonable rates.

Subsection (a)(2):

The proposal amends 46 U.S.C. § 55305(d) by striking the current process for waiving cargo preference requirements.

The FY24 National Defense Authorization Act (NDAA) made changes to the authority to waive cargo preference requirements under 46 U.S.C. § 55305. Prior to enactment of the FY24 NDAA, the President, Secretary of Defense, or Congress were authorized to waive cargo preference requirements upon a declaration by one of them that an emergency existed justifying a waiver. The FY24 NDAA amended this language to: (1) remove Congress' authority to declare that an emergency exists justifying a waiver; (2) authorize the Secretary of Transportation to declare that an emergency exists justifying a waiver; (3) allow waivers only if the Maritime Administrator determines that there are no U.S.-flag vessels available to meet cargo preference requirements; (4) for each such determination, require MARAD to identify actions that could be taken to engage U.S.-flag vessels to carry cargo; (5) establish time limits on waivers; and (6) establish notification requirements.

The waiver authority that existed prior to enactment of the FY24 NDAA was never exercised in the 70 years since its enactment. Accordingly, MARAD does not anticipate the President, Secretary of War, or the Secretary of Transportation declaring an emergency justifying a waiver of cargo preference requirements in the short or long term, nor does MARAD believe the FY24 NDAA changes will significantly change the amount of cargo being carried on U.S.-flag vessels. As an alternative, MARAD recommends changes to the waiver provisions of the statute that will increase transparency and allow MARAD to better identify cargo opportunities for U.S.-flag vessels.

The proposal amends subsection (d) to allow the President, Secretary of War, or Secretary of State to waive the 100 percent cargo preference requirement temporarily by declaring the existence of an emergency justifying a waiver. As noted above, this proposal also would amend subsection (d) to allow the Secretary of Transportation, upon the request of a Federal Government agency filed at least 10 days prior to transporting cargo, to waive cargo preference requirements after a determination by the Secretary that there are no U.S.-flag vessels available that are responsive to the solicitation by vessel type or at fair and reasonable rates. Under current practice, agencies issue freight awards to foreign vessels, inform MARAD after the contract award has been issued that there were no U.S.-flag vessels available, and then request that MARAD determine retrospectively that U.S.-flag vessels were not available for the contract shipment without providing MARAD any facts upon which to make such a determination. This proposal clarifies that vessel availability determinations will be made solely by MARAD and prior to transportation, rather than by the agency contracting for the transportation of the cargo after the contract for transportation has been made.

To improve transparency to Congress and stakeholders, this proposal also requires the Secretary of Transportation to notify Congress of waiver requests and to publish on the Department of Transportation website any waivers that are issued.

The proposal also requires the Secretary of Transportation, in consultation with the Secretary of State, to promulgate rules defining fair and reasonable rates. The goal is to provide clarity and reduce procedural friction in the waiver process by establishing an objective standard based on vessel cost, to the maximum extent possible.

Subsection (a)(3):

The proposal amends 46 U.S.C. § 55305(e) to clarify cargo preference compliance requirements. Currently, subsection (e):

- requires agencies with a program subject to cargo preference requirements to administer that program under regulations and guidance issued by the Secretary of Transportation;
- requires the Secretary to report to Congress on each agency's administration of such programs; and
- authorizes the Secretary to direct agencies to "make up" cargo shipped on foreign carriers in violation of cargo preference requirements by using U.S.-flag vessels for future shipments of cargo that would not otherwise be subject to the requirements.

The current statutory language is unclear as to what agency actions are subject to compliance review and for what period. Federal agencies have not permitted MARAD to review their cargo preference policies nor have they historically been required to provide MARAD with information about contracts and ocean cargo shipments. As noted above, some agencies make

their own vessel availability determinations, i.e., that U.S.-flag vessels are not available, without engaging MARAD. Accordingly, MARAD spends thousands of labor hours evaluating each Federal agency and department's compliance by reviewing Federal contracts found on private websites and examining bills of lading submitted to MARAD as required by MARAD regulations. Therefore, the discovery of any violations may occur months after the cargoes have been shipped aboard a foreign vessel.

Contract information—The proposal amends subsection (e)(1) to require agencies to—

- Include cargo preference provisions in all solicitations, applications, financing agreements, and procurement contracts.
- Submit contracts to MARAD in advance of ocean carriage that include information regarding planned or proposed ocean transportation and all parties involved with such transportation. Providing this information will permit MARAD to work with agencies to find U.S.-flag vessels to provide the transportation, if needed, and ease the burden of matching bills of lading or Automated Commercial Environment Internal Transaction Number (ACE ITN) information with Federal contracts.
- Provide MARAD with ACE ITNs instead of electronic or paper bills of lading, when applicable, for all shipments under a contract submitted to MARAD. Access to this information would reduce labor hours spent manually entering bills of lading into a MARAD database, as well as costs to maintain and upgrade this database.
- Seek contractual remedies, such as downward adjustments, against contractors who fail to comply with cargo preference requirements under the contract.
- Retain records regarding shipments for five years after each shipment is completed.

Compliance determination—The proposal amends subsection (e)(2) to—

- Make clear that the Secretary of Transportation is the sole authority for determining an agency's compliance and authorizes a review of every shipment and compliance plan, rather than requiring a review of an agency's "program."
- Remove the "make up" provision currently authorized in subsection (e)(2)(B). Requiring agencies to submit contracts and shipping plans and allowing them to request waivers of the cargo preference requirements permits MARAD the opportunity to ensure U.S. flag vessels are used when available, *prior to shipment*, and therefore, eliminating the need for make-up cargo.

Subsection (b):

Subsection (b) provides that the proposed changes in this proposal will become effective 180 days after enactment.