Summary of Features of a "Public Interest" Maritime Program

Shipyard Subsidy (CDS)

-- Subsidy amount to be determined by evaluation of national need for shipbuilding capacity; subsidy rate determined by U.S.-Foreign differential then held fixed for two year period; operators have option to buy foreign; yards can sell to foreign purchasers.

Operating Subsidy Alternatives

-- Revenue Incentive System with or without recaptive; payment for commercial cargoes only; relatively free entry; flexible trade routes.

-- Class rate system

Cargo Preference

-- Eliminate non-military preference cargoes by making AID and PL480 cargoes available to recipient nations on FAS basis on U.S. port.

Passenger Ship

-- Don't discuss the item in program, but allow operators to request early retirement.

Reserve Fund

-- Eliminate Title VI reserve funds at end of present contracts.

Title XI

-- Use standard BOB A-70 interest rate guides -- do not subsidize the interest rates; encourage Title XI use for specialized private building for DOD use (as small tankers) of otherwise non-competitive ships.

Research & Development

-- Government provide matching funds under some formula such as 20 industry, 80 government.

-- Emphasize R&D rather than other subsidies in attempt to find means for competitive improvement.

Nuclear Ship

-- No new nuclear program; discontinue Savannah.

NDRF

-- Revitalize by some converstions and some austers new construction in foreign yards.

Transfer of MARAD to DOT

-- Transfer by reorganization plan

Independent Subsidy Board

-- Independent Board appointed by Secretary

Shipbuilding Study

-- Interdepartmental government group to determine level of need for subsidies on merchant ship construction in addition to Navy and other government programs.

Program Money Levels

-- Construction and operating aids sufficient to meet military and urgent civil emergency needs, taking foreign construction and shipyard needs into account (Task Force level).

A PROGRAM FOR MERCHANT MARINE RENEWAL

w/o "Program Costs & Effects"

XXXXXX

MAY 1968

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A PROGRAM FOR MERCHANT MARINE RENEWAL

OBJECTIVES OF THE PROGRAM

The program proposed in this paper has the following objectives:

-- Relate the size of the program of merchant marine operating subsidies to Defense and clearly urgent civilian emergency needs.

-- Separate the shipbuilding subsidy program from the ship operating subsidy program, and relate it to the national need for private shipyard capacity taking into account other government (e.g., Navy) programs providing shipyard activity.

-- Reform both the operating and shipyard subsidy programs to provide incentives to competitive and productive activity, eliminate indirect, duplicated and hidden subsidies, and simplify administration.

-- Allow ship operators to purchase ships in world shipbuilding market for U.S. flag operation with full privileges, subject to controls consistent with programs restraining foreign expenditures and investments.

-- Rationalize the cargo preference system to minimize costs while retaining "routing preference."

-- Provide for closer integration of maritime transportation into a unified national system of transportation by transferring the functions of the Maritime Administration to the Department of Transportation.

SUMMARY OF PROGRAM FEATURES

Shipyard Subsidy

-- Subsidy amount to be recommended by Secretaries of Defense and Transportation after evaluation of national security need for shipbuilding capacity and of degree of maritime support needed in addition to other government programs; subsidy rate determined by U.S.-Foreign construction cost differential; operators have option to buy foreign; yards can sell to foreign purchasers.

Operating Subsidy

-- Developmental contracts would be granted under the following alternative systems:

  - Revenue Incentive System providing subsidy related to cost-parity but paid on basis of revenue earned, with or without recapture; payment for commercial cargoes only; relatively free entry by new operators; flexible trade routes.

  - Class rate-need incentive system setting standards of revenue and operating costs for ship classes and providing subsidy to allow reasonable profit. System gives incentive to exceed standard to increase profit.

  Present subsidy contractors would be required to shift to the new system selected at end of present contracts.

Cargo Preference

-- Retain present preference levels to U.S. Flag ships. Reduce costs by providing direct operating subsidies to new bulk carriers and reducing "fair and reasonable" rate ceilings.

Passenger Ships

-- Encourage operators to request early retirement.

Reserve Funds

-- Eliminate Title VI reserve funds at end of present contracts.

Title XI Ship Mortgage Insurance

-- Encourage Title XI use for specialized private building for DOD use (as small tankers) of otherwise non-competitive ships.

Research & Development

-- Increase R&D funds to $25m per year for five years. Goal is to improve competitive performance. Encourage more private industry participation and support. Emphasize cargo handling systems, integration of sea and land systems and basic hydrodynamic research related to modernized merchant hull forms.

Reserve Fleet

-- Revitalize by some conversion and some new construction of austere ships in U.S. Yards with an initial appropriation of $30m in FY

1970. Allow for purchase of recently constructed but no longer economically competitive conventional ships. Retain ships in fleet for emergency use -- no trade outs.

Nuclear Ships

-- Review need for nuclear program at present.

Transfer of MARAD to DOT

-- Transfer is proposed in order to provide for a more efficient national system of transportation.

BACKGROUND: Problems and Issues

The catalog of the chief problems relating to the merchant marine is well-known, but there is little agreement on how they should be approached or even defined: Here are listed the chief problems and issues as they are viewed by the government:

-- The direct operating subsidy system badly needs reform, to simplify its administration, to provide incentives to competitive and productive operation, to limit it to cargoes carried in competition with foreign operations. This subsidy is available to only about 1/2 of the fleet that is engaged in carrying cargoes to foreign destinations. The other half of the non-domestic fleet receive difficult-to-control indirect subsidies in the form of higher rates for carrying government cargoes. The part of the fleet operating in domestic service operates in a completely protected market at excess costs to the consumer which have been estimated at $128m per year.

-- Most of the fleet is over-age, and the complex and costly system of indirect promotional aids has failed to produce any renewal in the "unsubsidized" (or indirectly subsidized) segment of it, except at costs that make competitive commercial operations in foreign trade impossible and domestic operations only marginally competitive with on-land domestic modes.

-- Replacement of ships in the directly subsidized segment of the fleet is expensive and is dependent on government appropriations availability rather than on the best business judgment of the operators themselves. The replacement program is tied to the government support of the shipyard industry, whose needs and problems are only partially related to the merchant marine -- an industry that receives well in excess of $2 Billion per year in government support from Navy and other non-maritime government programs. To provide for merchant marine replacement, additional federal subsidies, possibly in excess of the national security need for such support, must be funnelled to the shipyards.

-- The merchant marine is the only American transportation industry required by law to buy its capital equipment -- its ships -- from U. S. sources at completely uncompetitive prices rather than having an option to purchase at prices that will enable him to compete with foreign merchant marines.

-- The complete dependence of much of the merchant marine on government cargoes gives it a future limited by the objectives, levels and uncertainties of the government programs that generate the cargoes. In many instances government cargoes are reserved at high cost in order to support shipping whose only function and utility is to carry these cargoes. Some cargo preference program appear to impose a Balance of Payments penalty.

-- The system of applying construction subsidies is administratively cumbersome, and does not encourage operators and yards to work together on productive designs to reduce costs or to standardize methods. There is little competitive pressure to lower ship prices.

-- Both Labor and Management groups in the industry are fragmented and in disagreement on most issues and on solutions that would increase productivity efficiency and industry stability.

-- The Defense justification for passenger ship subsidies has disappeared and their economic future is dim. Subsidization of luxury cruises by tax money is questionable.

-- The merchant marine, an important and integral part of the nation's transportation system with a higher degree of government involvement in its support and promotion than any other transport mode, has been excluded from inclusion in the Department of Transportation, thereby making its coordination with other parts of the nation's transportation system greatly more difficult.

<u>Background: Philosophy</u>

The merchant marine, like other programs requiring Federal support, should be subsidized only for the purpose of meeting identifiable national needs.

Further, the level of Federal support must be keyed to meet these needs at a minimum but adequate level. These identifiable needs for a merchant marine are national security needs for shipping -- our military needs, plus the capability to meet the most urgent civilian needs of the economy under emergency conditions. It is to this level that our fleet should be subsidized and within this framework renewed and revitalized. This level of emergency need can be met by a mix of subsidized private-owned active shipping and government-owned reserve shipping calculated to provide the required capability at the minimum cost to the taxpayer, subject to the availability of manpower to man reserve vessels.

The economic value of a highly-subsidized merchant marine must be viewed in the context of the alternative needs and opportunities for use of the resources. Other areas of the economy provide greater opportunities to obtain greater results in terms of employment, profits or Balance of Payments impact, and the Merchant Marine should not be subsidized solely for the purpose of obtaining these results, but should be subsidized to maintain it at the approximate level of identifiable national needs. We welcome such desirable secondary economic benefits as it returns, but they are not a justification themselves for the subsidies. On the other hand, a merchant marine operating competitively and productively with little or no subsidy would be an effective contributor of economic benefits and we should have as large a merchant marine of this competitive, non-subsidized character as private enterprise can develop.

Much has been said of the urgency of a large, expensive merchant marine revitalization program. The fact is that we cannot disregard the costs and we do not need such a program at excessive costs. The fleet, although in need of massive renewal, is capable of meeting our current and foreseeable defense needs. Our commercial imports and exports are moving without difficulty, carried by international shipping at competitive costs. The marginal changes in the level of U.S. merchant marine participation in carrying our foreign trade that are feasible and achievable would not affect our Balance of Payments position to a degree sufficient to justify the costs.

The <u>real urgency is for policy reforms</u> that will provide a sound basis to enable the industry to meet its problems with competitive and productive solutions and without excessive government interference. The most needed of these policy reforms is a loosening of the present restrictions that tie the operating merchant marine to the shipyard industry. These are separate industries each with its own important place in our economy, its own relationship to national needs, its own problems. They are subsidized at completely different levels. The present obsolete state of the merchant marine is directly attributable to this tie: Our merchant marine operators would have long since proceeded with renewal of their fleets, if free to purchase their ships in the world market at competitive prices like the shipowners of other maritime nations. As things stand, in order for private shipowners to replace privately-owned merchant vessels, additional government subsidies (large by maritime program standards) must be given to the shipyard industry, already the recipient of massive annual infusions -- about 20 times the merchant marine construction subsidy of recent years -of Federal tax money for the construction and repair of vessels for government ownership -- Navy, Coast Guard and other.

Expected Results of Program

The program proposed does not guarantee that any given size fleet will be built -- no program short of nationalization of the merchant marine could do this.

The program would give the maritime industry the opportunity and flexibility to fully meet the revolution in technology now underway in maritime transportation: Containerized general cargo systems and the large specialized bulk ship systems which are being placed in operation require that investments in new ships be made at competitive prices. New ship types, particularly the large specialized carriers, will inevitably drive older and obsolete ships from the ocean. The as-yet-unknown impact of these new developments on the market for shipping services requires that management be free and flexible in its ability to make judgments on new equipment investment and service opportunities. The proposed program would provide this flexibility: It would lift the ceiling on government restraints on fleet renewal and reduce the interference in day-to-day operations.

The opportunity provided by the revolution in technology is timely: Competing foreign merchant marines have committed large investments in conventional ships which although young, are obsolescent in the light of technological possibilities. The U. S. Merchant Marine, by virtue of the existing stagnation of investment caused by the rigid laws requiring U. S. construction, are in a position to renew and expand under this program with advanced-type vessels and systems, thus turning the problem of our obsolete (but largely amortized) fleet to advantage.

DESCRIPTION OF PROGRAM FEATURES

Separate Subsidy Programs for Ship Operators and Shipyards: Ship operators and shipyards would have separate direct subsidy programs:

- Shipyards would receive subsidy to enable them to compete in the construction and sale of merchant ships at world market prices. The level of support would be determined by the national security need for shipyard activity, taking Navy and other government support to shipyards into account.

- Ship operators could purchase their vessels at world market ship prices and would receive operating subsidy to enable them to operate flexibly and competitively in the world market for commercial shipping services.

These programs are separately described below.

-- Fleet Renewal:

- Operators in Foreign Trades: Ship operators in foreign trades would be permitted to buy ships at world market prices either by purchasing ships built in U.S. yards under the shipyard subsidy program or in foreign yards, subject to appropriate restrictions on foreign expenditures and investments. Foreign-built vessels would be registered under U.S.-flag, manned with U.S. crews and would have all privileges of U.S. registry accorded to similar U.S.-built vessels. Only new foreign-built ships would be eligible. General design features and specifications of vessels to be built would require approval by the Maritime Administration to be eligible for subsidy. Operating subsidy would be available to any ship in foreign trade except proprietary carriers, up to the limits of the program level.

- Operators in Domestic Trades: Ship operators in domestic trades would be able to purchase ships at world market prices in U. S. or foreign shipyards but under a licensing procedure which would function to protect existing unamortized investments in ships constructed or substantially converted at U.S. prices. The procedure for placing the domestic trade of a new ship to be built at a world market price would be as follows:

  1. The operator would make application to the Maritime Administration with his proposal.

  2. A hearing would be scheduled and opportunity to be heard would be available to those who considered that their existing ship investment equity would be jeopardized by the proposal.

  3. The application, together with hearing record would be considered by the Maritime Subsidy Board, who would decide whether the ships could be entered in the service (subject, of course, to normal ICC certification).

4. Appeal by either applicants or opponents would be made to the Secretary of Transportation.

Entries would be considered on a trade-by-trade basis: There are some domestic trades where there would be small likelihood of either opposition or jeopardy of existing investment. No operating subsidies would be available in domestic operations.

The program would call for removing all restriction on foreign construction of U.S.-flag, U.S.-manned vessels for domestic trades in FY 1982, 12 years after the program starts.

. <u>Trade-in Vessels</u>: Existing vessels of operators in either domestic or foreign trade could be purchased into the National Defense Reserve Fleet, depending on the needs of the NDRF and the vessel's potential utility to the NDRF in terms of condition and type of configuration.

-- <u>Shipyard Subsidy Program</u>: The Federal money to be available annually for subsidizing merchant ship construction would be recommended jointly to the President by the Secretaries of Defense and Transportation, based on their determination of:

-- The National emergency need for private shipyard activity and shipyard capacity.

-- The degree to which this need is being met by Navy and other government programs.

-- The degree to which this need should be met by shipyard subsidies for merchant ship construction, either to maintain activity or capacity levels, or to maintain specialized skills or facilities that would not otherwise exist. The Secretaries would consider material presented to them by the shipbuilding industry and ship operators in addition to other information.

After determination of the level, the program would handle shipyard subsidies as follows:

1. Construction subsidy rates would be initially calculated in a manner similar to the present system to indicate the best estimate of percentage difference between U.S. costs and reasonable foreign costs. These rates would be promulgated by MarAd and fixed for an initial period of up to two years.

2. The U. S. ship purchaser would have the full freedom to purchase his ships either in the U. S. yard or abroad based on

price and any other considerations he may wish to include, such as ease of repair and supply, etc. Thus, except for additional safety requirements for U. S. registry or more expensive crew quarters needs, he faces the same ship prices as any world market ship purchaser.

3. Added defense features would be financed as added cost to the government, as at present.

4. The U.S. shipyard, with knowledge of his costs, the subsidy rate and world ship prices, could design ships for sale to operators, could bid on contracts offered by ship purchasers and could work on a completely free basis with the operators, U.S. or foreign.

5. Proposed contracts for construction would be brought to MarAd who would pass on the general specifications of ships for U. S. operators. Subsidy money to the limit appropriated for the year would be allocated to yards with choice between contracts being made on a productivity formula basis.

7. Subsidized operators under present contracts would continue to receive "M&R" as an item of subsidy and would be required to repair in U.S. yards until termination of their contracts.

8. Shipowners purchasing ships abroad would be urged to take maximum advantage of financing, interest rate and ship pricing arrangements that are offered by foreign countries. (In some cases these will represent subsidization of ship prices by foreign countries).

9. U.S. shipyards can build ships for foreign purchasers if not enough U.S. ship purchase contracts develop in a given year.

10. Funds to be used for ship purchases in foreign yards would come under controls on foreign investment and expenditure similar to those faced by other U.S. transportation industries.

11. In the event that foreign ship purchasers specify parts or equipment of foreign manufacture, the shipyard subsidy input to the ship would be reduced appropriately.

-- <u>Operating Subsidy Programs</u>:

- <u>New Liner Contractors</u>: New qualified applicants would be placed under developmental contracts utilizing new operating subsidy systems that would provide greater incentives to efficient, productive and competitive operation while allowing the government to reduce its surveillance and stay out of the operator's management decisions.

Two alternate systems have been developed:

- Revenue Performance Incentive System:

  Using the present cost parity system as a point of departure, it takes gross operating revenue as a measure of performance and relates it to subsidy accrual, dividing the subsidy accrual at a starting point of time (base year) by operating revenues for that year to establish an incentive payment factor. This factor remains fixed for an incentive period, for example, 3-5 years. The amount of subsidy payable during each year in the period is the result of multiplying the incentive factor times the revenue earned in that year, regardless of revenue or cost changes. At the end of an incentive period, a new factor is calculated. Subsidy will be paid only for revenue earned by carrying commercial cargo.

- Class Rate Need System:

  This system divides the foreign trade merchant marine into classes based on type and area of operations. The revenue-producing potential of each of the classes is estimated and average costs identified for each class based on reasonable and prudent management practices and on domestic price factors. By comparing costs with revenues it determines how much subsidy is required to produce an acdeptable rate of return on the capital investment. The class subsidy rates would be recalculated periodically as income potential and costs change. This system is similar to that now in existence for the class rate airlines administered by CAB. It has the advantage of automatically phasing itself out of existence if the need for subsidy disappears. Also, there is no requirement to determine foreign operating costs.

An additional system dealing with both capital and operating subsidy is available for trial:

- Build and Charter: The operator constructs a ship to specifications acceptable to the Subsidy Board and charters it to the government at a rate to cover his capital and operating costs plus return on investment. The government recharters the ship to the operator at a lower rate, the difference between the two rates being the operator's subsidy need.

- <u>Present Subsidized Contractors</u>: The present contractors would be asked to participate in the subsidy system development and evaluation to insure that the system would work effectively for them. At the end of their present contracts, or earlier if operators desire, renewal contracts would be based on the new system. Operators whose contracts would terminate during the development period, would be given extensions of their present contracts until after this period in order that they and the government could evaluate the results of the new proposed system.

- <u>Bulk Operators</u>: The operating subsidy for bulk carriers would be a streamlined, administratively simplified class rate system. The system would be slightly different for long-term time charter operations and shorter-term arrangements.

  -- <u>Long-term Operations</u>:

  1. Entrepreneurs planning to set-up or bid upon a long-term charter (for example, a 10 or 15 year charter to move coal or ore for a steel industry operation, here or abroad), prior to making his bid would bring the details of his proposal and its cost, including shipbuilding plans and costs (assuming the package to include construction of new ships) to the Maritime Subsidy Board.

  2. The Board, using streamlined evaluation procedures to reduce the time required for processing, would decide on the size of annual subsidy payment that the government would make to the operator and would set times during the proposed charter period, for example, at the end of each five years, when the subsidy arrangement would be reopened for evaluation and adjustment. Performance requirements would be included in the government's agreement with the operator consistent with the nature of the operations being contemplated under the proposed charter. These matters would be on a confidential basis between the Board and the operator to avoid jeopardizing the operator's competitive bidding or negotiating position.

3. The Board's decision would form a commitment to the operator, should he obtain the contract, and he can then make his bid (or negotiate) for the charter allowing his bid price to reflect the subsidy.

-- Short-term Operations:

1. Operators contemplating shorter-term time charters (for example 1 or 2 years) contracts of affreightment, etc., would bring the details to the Maritime Subsidy Board, as above.

2. Depending on the length of arrangement contemplated, the Board could commit for a one-time subsidy payment or annual payments, with performance requirements consistent with the charter.

3. This commitment could then be used by the operator in his bidding or negotiations.

-- Subsidized Bulk Operations to be Related to U.S. Foreign Trade:

To receive subsidy, bulk operations would have to be related to the U. S. Foreign Trade. However, these subsidized operations could have one or more legs in crosstrades between foreign countries as part of their overall operation.

Cargo Preference:

Cargo preference would be retained but its costs would be reduced by allowing new subsidized bulk ships to compete for the cargoes, in conjunction with their commercial operations. Cargo preference would be administered under "Fair and Reasonable" ceiling rates, and subsidized new ships built at world market prices would have "Fair and Reasonable" rates administered so as to reflect the subsidy and be at the competitive world rate. The proposed program contemplates that the older tonnage would be scrapped when it was no longer useful in cargo preference and that the operators would construct new tonnage at world market prices and possibly even enter other trades.

The program recommends that the administrative location of the maritime promotional functions of cargo preference administration be reviewed.

Passenger Ships

The operation of 13 luxury passenger ships costs about \$50 M annually in operating subsidies -- roughly a quarter of the entire direct operating subsidy accrual. These vessels provide luxury cruises and some luxury-class transportation. For transportation purposes, the trend is strongly toward air travel and in all cases where service is provided by U.S. passenger vessels,ample alternative air transportation is available.

The Defense utility of these vessels has diminished to the vanishing point. They are extremely expensive to use as troop vessels.

The operators of these vessels would be encouraged to terminate the subsidy contracts on the vessels at the early date so that the funds can be reprogrammed into other uses.

Nuclear Ship Program

There is serious doubt as to the attractiveness and wisdom of proceeding with a broader nuclear ship program at the present time. It appears that power reactors of the relatively small sizes required for merchant ship propulsion will continue to be non-competitive with oil over the foreseeable future. The necessity for active operation of the N.S. SAVANNAH should also be reviewed in the light of the probably dim future of nuclear merchant ship reactor technology.

Research and Development

The program calls for increasing the annual level of effort in Maritime-related research and development to roughly \$25 M as part of the Department of Transportation R&D program. The participation of private industry in supporting and participating in maritime R&D will be encouraged.

Maritime R&D would include ship operations, cargo handling systems on ships and ashore, integration of sea and land transportation systems, basic hydrodynamic research related to modern merchant ship hull forms.

Ship Availability for Defense and Emergency Needs

The program would include arrangements for the availability of ships from the active fleet on an incremental basis without the need for requisitioning.

A plan being discussed between the Department of Defense and a group of private operators, calls for several levels or stages of ship availability, keyed to particular levels of Defense activity.

The details of this system are being worked out between the Department of Defense and the representatives of the private operators.

Revitalization of the NDRF

The program includes a proposal for the revitalization of the NDRF in order to provide a "surge capability" to meet peak emergency needs in future crises, and in the event of smaller emergencies, to meet needs with less disruption of commercial services. This revitalization would be accomplished over several years through some conversion of existing NDRF vessels, some new construction of austerely-built ships and perhaps some purchases from operators of relatively new but commercially uncompetitive ships.

1. Some of the roughly 100 Victory (AP-5) -- class troopships in the NDRF would be converted and/or jumboized into general cargo ships of about 13,700 measurement tons (550,000 cubic feet) capacity, with cargo handling gear capable of up to 60 long ton lifts. Estimated cost is about $2.8 million per ship.

2. Returning Victory cargo ships now under general agency agreement operations could be selectively repair and returned to the fleet. Estimated average cost is $140,000 each.

3. Based on bid costs consideration would be given to constructing new ships of austere design for placement in the NDRF either in addition to (or as an alternative to) conversion of war-age vessels.

4. Suitable ships owned by existing operators could be purchased as "trade-ins" under the ship renewal portion of the program and would provide additional usable NDRF capability.

5. Unusable ships in the NDRF would be sold for scrap or other non-ship uses as rapidly as possible.

6. Converted and returning ships would be placed under modern preservation.

7. Some vessels in the NDRF may be kept at a higher state of readiness in order to allow quicker availability.

8. New, converted and upgraded ships in the NDRF would be excluded from ship exchange provisions in order to keep a better quality "surge capacity" for emergency use.

Reserve Funds

-- The program contemplates that the setting aside of Title VI reserve funds will be terminated at the expiration of the present contract commitments. The future capital investments of the merchant marine can then come under the depreciation guidelines and the investment credit rules of the Treasury Department similar to those governing other industries.

-- The Secretary of the Treasury will undertake a review of our tax law as it affects the shipping industry, including U.S.-owned shipping under foreign flags, with a view to recommending other legislation to remove unjustified tax advantages.

Program Costs and Effects

GENERAL

The program calls for subsidizing the operation of sufficient shipping capacity to meet the national security needs (military needs plus the most urgent of civil emergency needs.) The program permits foreign and domestic construction of new ships, and the opportunity for the government to purchase new or existing vessels for the National Defense Reserve Fleet as well as convert and/or jumboize Victory class troopships.

The fleet size, mix of ships, split between active and reserve status, and total costs to the government, was estimated for the program on this basis and subject to the following conditions:

- The fleet, active and reserve, is to be capable of meeting the time-phased requirements for the 1970's.

- Manning for the reserve fleet must be available in a reasonable period of time.

- Domestic shipping is restricted to U. S. Flag vessels.

- Operators have the option of buying new ships either foreign or domestic.

-- Total cost to the government, including construction and operating differential subsidy, activation costs for reserve ships, and buy back costs, are to be minimized within the bounds of all the above conditions.

RESULTS

Many alternative programs were examined--one is shown below:

Level program of new construction in U. S. shipyards of $110 M Federal subsidy per year plus $90 M of operators share (i.e. 55% CDS); plus up to $30 M per year of Federal money into shipyards for Reserve Fleet revitalization by conversion and new construction.

Required Capability in the Mid-1970's

(All of active fleet under operating subsidy or in domestic trade.)

	Active (Ships/Tonnage)	Reserve (Ships/Tonnage)
General Cargo Ships	244/3.6 M	45/0.57 M
Dry Bulk Carriers	74/3.3 M	- 0 -
Tankers	210/7.1 M	- 0 -
Total	528/14.0	45/0.6

Total fleet size: 573 ships /14.6 M DWT.

The tonnage required in this program is about equal to that present in the current active fleet, a capability which has gradually increased from 13 M DWT in 1950 to the current level of 15.1 M DWT.

Composition of Fleet

New Construction in Domestic Yards: 60 large tankers 74 large automated dry bulk carriers

New Construction in Foreign Yards: 118 general cargo ships ranging in size from large breakbulk to LASH vessels - includes high speed containerships.

57 large tankers of design similar to ships currently being constructed in U. S. yards.

In addition to these new constructions, the proposed active fleet includes approximately 171 general cargo ships and 93 tankers built since the mid-1950's.

The program for the reserve fleet consists of 45 ships of relatively recent construction such as Mariners and freighters constructed in the early 1960's. These ships are to be purchased by the government from private operators. The older ships, currently retained in the reserve fleet at a low cost to the government, will be phased-out as these newer ships become available from the active fleet.

Comparison of Proposed Fleet With Today's Private Fleet

	Proposed Private Fleet -Active-	Today's Private Fleet -Active- (As of March 31, 1968)
	(Ships/DWT)	(Ships/DWT)
General Cargo	244/3.6M	619/7.1 M
Dry Bulk Carriers	74/3.3M	59/1.1 M
Tankers	210/7.1M	293/6.9 M
Totals	528/14.0M	971/15.1 M

The reduction in the number of general cargo ships and the total capability for carrying general cargo is explained by the significant increase in ship speed and the more productive cargo handling features on future vessels.

Estimated Cost to Government

Required appropriations for the 10-year period FY 1970 to 1980:

Shipyard Support	$1.10 B
Operating Aid	$1.86 B
NDRF Ship Costs	$ .13 B
Total	$3.09 B

In addition to these costs, Maritime related research and development funds of about $25 M per year for five years is included in the program.

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

Identical letter to:
Honorable John W. McCormack
Speaker of the House
of Representatives

MAY 20 1968

Honorable Hubert H. Humphrey
President of the Senate
Washington, D. C. 20510

Dear Mr. President:

There is transmitted herewith a proposed bill

"To amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program",

together with a section-by-section analysis.

This bill would carry out the Administration's new maritime program. The objectives of that program are:

-- Relate the size of the program of merchant marine operating subsidies to defense and clearly urgent civilian emergency needs.

-- Separate the shipbuilding subsidy program from the ship operating subsidy program, and relate it to the national need for private shipyard capacity taking into account other Government programs providing shipyard activity.

-- Reform both the operating and shipyard subsidy programs to provide incentives to competitive and productive activity, eliminate indirect, duplicated and hidden subsidies, and simplify administration.

-- Allow ship operators to purchase ships in world shipbuilding market for U.S. flag operation with full privileges, subject to controls consistent with programs restraining foreign expenditures and investments.

-- Rationalize the cargo preference system to minimize costs while retaining "routing preference".

-- Provide for closer integration of maritime transportation into a unified national system of transportation by transferring the functions of the Maritime Administration to the Department of Transportation.

A detailed discussion and justification of the proposed bill is contained in the statement which I presented today to the Subcommittee on Merchant Marine and Fisheries of the Senate Commerce Committee. A copy of that statement is enclosed.

The Bureau of the Budget has advised that enactment of this proposed legislation would be in accord with the President's program.

Sincerely,

"Original Signed by"

Alan S. Boyd

Enclosures

A BILL

To amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 209(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1119(b)), is amended by inserting before the period at the end thereof a colon and the following: "PROVIDED, HOWEVER, That there is authorized to be appropriated (1) for construction-differential subsidy and the cost of national defense features incident to construction, reconstruction, or reconditioning of ships for operation in foreign commerce, and for the acquisition of used ships, $110,000,000, for the fiscal year 1970, to remain available until expended; (2) for research and development, $25,000,000, for each of the fiscal years 1970 through 1974, to remain available until expended; and (3) for modernization of the reserve fleet, $30,000,000, for fiscal year 1970, to remain available until expended."

Sec. 2. Section 211 of the Merchant Marine Act, 1936, is amended as follows:

(1) Subsection (b) (46 U.S.C. 1121(b)) is amended by inserting at the end thereof, immediately before the semicolon, a comma and the words "or which should be employed as contract carriers".

(2) Subsection (d) (46 U.S.C. 1121(h)) is amended by inserting after the words "services, routes, and lines" a

comma and the words "or as contract carriers" and a comma, and by inserting after the words "service, route, or line" a comma and the words "or contract carrier".

Sec. 3. Sections 501 through 503 of the Merchant Marine Act, 1936 (46 U.S.C. 1151-1153), are amended to read as follows:

"Sec. 501. (a) For fiscal year 1971 and each year thereafter, the Secretary of Transportation and the Secretary of Defense shall recommend to the President the level and character of ship construction subsidy. The two Secretaries shall jointly determine and publish a statement setting forth: (1) The national need for private shipyard activity and capacity; (2) the degree to which this need will be met by naval and other Government ship procurement programs; and (3) the degree to which this need should be met by shipyard subsidies for merchant ship construction. In making these determinations, the two Secretaries shall give consideration to such factors as the long-run plans for emergency production and the need to maintain specialized skills.

(b) Any privately-owned shipyard who is a citizen of the United States may make application to the Secretary of Transportation for a construction-differential subsidy to aid in the construction, reconstruction, or reconditioning of vessels for United States or foreign documentation. If the vessel is documented or is to be documented under the laws of the United States, the applicant shall submit the general specifications of the vessel to the Secretary for his approval.

The Secretary, after consultation with the Department of Defense, may require that certain features be incorporated in the vessel for national defense purposes. A ship operator, who is a citizen of the United States, who wishes to obtain competitive bids on a vessel to be built to his specifications for documentation in the United States, shall submit the specifications to the Secretary for his approval prior to seeking such bids.

"Sec. 502. The amount of construction-differential subsidy shall be determined by the Secretary. The amount of subsidy may equal but not exceed an amount computed by taking the excess of the fair and reasonable estimate, as determined by the Secretary, of the cost of constructing a type of vessel in United States shipyards (excluding the cost of any features incorporated in the vessel for national defense uses, which shall be paid by the Secretary in addition to the subsidy), over the fair and reasonable estimate of cost, as determined by the Secretary, of the construction under similar plans and specifications of that type vessel (excluding national defense features as above provided) in a foreign shipbuilding center which is deemed by the Secretary to furnish a fair and representative example for the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed, and expressing the result as a percentage of the fair and reasonable estimate, as determined by the Secretary, of the cost of construction of that type vessel in the United States shipyards, and applying such percentage to the applicant shipyard's contract price. Subsidy rates shall be computed separately for different types of vessels and shall be periodically recomputed but not more frequently than once each year. In making his foreign cost estimate, the Secretary shall review and consider any foreign cost estimates and substantiating information submitted by operators, shipyards, or other sources. In no case may the construction-differential subsidy rate exceed 55 percent for any type vessel; PROVIDED, That, after June 30, 1970, the rate may not exceed 50 percent.

"Sec. 503. (a) The contract price for the construction of vessels for which construction-differential subsidy is requested may be determined by competitive bidding or negotiation. No contract shall be approved for subsidy unless the Secretary finds that the price is fair and reasonable, and that the shipbuilder possesses the ability, experience, financial resources, equipment, and other qualifications necessary properly to perform the proposed contract. Within the limits of available appropriations, construction-differential subsidy shall be allocated among the applicants on the basis of a standard which favors those contracts yielding the least subsidy per productive ton, taking into account the intended purpose and function of the vessel. All contracts submitted to the Secretary shall be accompanied by detailed estimates of all costs on which they are based. The Secretary may require that the bids of any subcontractors, or other pertinent data, accompany such contracts. All such bids and data relating thereto shall be kept on file for such period as the Secretary may determine.

"(b) All construction in respect of which a construction-differential subsidy is allowed shall be performed in a shipyard within the continental limits of the United States, including the States of Alaska and Hawaii. In all such construction, the shipbuilder, subcontractors, materialmen, or suppliers shall use, so far as practicable, only articles, material, and supplies of the growth, production, or manufacture of the United States as defined in paragraph K of section 401 of the Tariff Act of 1930. When due to the specifications of a foreign purchaser the use of articles, materials, or supplies of foreign growth, production, or manufacture is required, the construction-differential subsidy payable to the shipbuilder shall be adjusted as appropriate to reflect the cost differential.

"(c) In order for a vessel constructed abroad to be eligible for operating subsidy, the operator must first submit the specifications of the vessel to the Secretary and obtain his approval. As a condition to the Secretary's approval, the ship operator shall (1) comply with any regulations the Secretary may prescribe to protect the United States balance of payments; and (2) agree to make all of the data and information relating to his contract with the foreign shipyard available to the Secretary.

"(d) No vessel constructed with construction-differential subsidy or in a foreign shipyard subsequent to January 1, 1969, may be operated in the domestic trade unless the Secretary determines, after notice and hearing, that the operators of vessels which have been constructed or reconstructed in the United States after January 1, 1946, without construction subsidy and whose costs have not yet been fully depreciated for Federal income tax purposes, will not be seriously adversely affected by the operation of the vessel.

"(e) Any person may make written objection to the public disclosure of any information required to be submitted pursuant to this section, stating the grounds for the objection. Whenever an objection is made, the Secretary may in his discretion order the information withheld from public disclosure."

Sec. 4. Sections 504, 505, and 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1154, 1155, and 1156), are repealed. Contractors with the United States may be released from the provisions of their contracts inserted pursuant to the provisions of section 506 when the Secretary determines, after notice and hearing, that the operators of vessels which have been constructed or reconstructed in the United States after January 1, 1946, without construction subsidy and whose costs have not yet been fully depreciated for Federal income tax purposes, will not be seriously adversely affected by the operation of the contractor's vessel in domestic trade.

Sec. 5. Sections 507, 508, 509, 510, and 511 of the Merchant Marine Act, 1936 (46 U.S.C. 1157, 1158, 1159, 1160, and 1161), are redesignated as sections 504, 505, 506, 507, 508, and 509.

Sec. 6. Subsections (1) and (2) of section 507(a) (formerly section 510(a)) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(a)), are amended to read as follows:

"(1) The term 'obsolete vessel' means a vessel or vessels each of which is of not less than one thousand three hundred and fifty gross tons; which has been owned by a citizen or citizens of the United States for at least three years immediately prior to the date of acquisition hereunder; and which in the judgment of the Secretary should be replaced in the public interest.

"(2) The term 'new vessel' means a vessel whose construction in a foreign or United States shipyard is contracted for concurrently with a contract for trade-in of an obsolete vessel which it is to replace or whose construction is completed within five days of the date of the contract for such trade-in."

Sec. 7. Subsection (a) of section 508 (formerly section 511) of the Merchant Marine Act, 1936 (46 U.S.C. 1161), is amended by striking out subdivision (2) thereof and redesignating subdivision (3) thereof as subdivision (2).

Sec. 8. Subsection (a) of section 601 of the Merchant Marine Act, 1936 (46 U.S.C. 1171), is amended by striking out of subdivision

(1) of the second sentence thereof everything after the words "authorized under section 613 of this title" except the semi-colon.

Sec. 9. Subsection (c) of section 605 of the Merchant Marine Act, 1936 (46 U.S.C. 1175(c)), is amended by striking out of the first sentence thereof the words "after proper hearing of all parties" and the words "following public hearing, due notice of which shall be given to each line serving the route" and by adding the following sentence at the end thereof: "In making a determination or finding under this subsection as to the adequacy of service, the Secretary must provide notice to all American flag operators furnishing the existing service or services, afford all such operators an opportunity to present written data, views, or arguments, with or without opportunity to present the same orally in any manner, and consider all relevant matter presented."

Sec. 10. Section 610 of the Merchant Marine Act, 1936 (46 U.S.C. 1180), is amended by striking out of subdivision (1) thereof everything after the words "shall be as fireproof as practicable," except the semi-colon and inserting in lieu thereof the words "and shall be documented under the laws of the United States".

Sec. 11. Section 801 of the Merchant Marine Act, 1936 (46 U.S.C. 1211), is amended by striking out "titles VI or VII" and inserting in lieu thereof "titles VI, VII, or XIII".

Sec. 12. Section 802 of the Merchant Marine Act, 1936 (46 U.S.C. 1212), shall not apply to contracts entered into after the effective date of this Act for construction of vessels with construction-differential subsidy.

Sec. 13. Section 804 of the Merchant Marine Act, 1936 (46 U.S.C. 1214), is amended by striking out the words "operating-differential subsidy under title VI" and inserting in lieu thereof the words "operating subsidy under titles VI or XIII".

Sec. 14. Section 805 of the Merchant Marine Act, 1936 (46 U.S.C. 1215), is amended as follows:

(1) Subsection (a) is amended by inserting after the words "title VI" the words "or title XIII".

(2) Subsection (c) is amended by striking "$25,000" and inserting in lieu thereof "$50,000".

(3) Subsection (d) is amended by inserting "under titles VI or XIII of this Act" following the word "contractor" in the last sentence.

Sec. 15. Section 808 of the Merchant Marine Act, 1936 (46 U.S.C. 1226) is amended by inserting the words "or title XIII" immediately following the words "title VI".

Sec. 16. Section 810 of the Merchant Marine Act, 1936 (46 U.S.C. 1227), is amended by striking out the word "operating-differential" and inserting in lieu thereof the word "operating", and by striking the words "title VI" and inserting in lieu thereof the words "titles VI or XIII".

Sec. 17. Subsection (b) of section 901 of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), is amended by inserting before the period at the end thereof the following: ", or (3) the vessel was built or rebuilt outside the United States subsequent to January 1, 1969. No vessel receiving operating subsidy and carrying cargo under this section shall receive a rate for such cargo in excess of that which it would receive for non-preference cargo moving on the same route".

Sec. 18. Subsection (c) of section 905 of the Merchant Marine Act, 1936 (46 U.S.C. 1244(c)), is amended by striking the words "under title VI of this Act" and inserting in lieu thereof the words "under titles VI or XIII of this Act".

Sec. 19. The Merchant Marine Act, 1936, is amended by inserting a new title XIII to read as follows:

"TITLE XIII - NEW OPERATING SUBSIDY PROGRAM

"Sec. 1301. The Secretary of Transportation is authorized to enter into contracts with liner operators for the payment of operating subsidy for the operation of liner vessels in the foreign commerce of the United States and with owners of tankers and dry bulk vessels built after the enactment of this title for operation as contract carriers in the foreign commerce of the United States, subject to such terms and conditions as the Secretary may determine.

"Sec. 1302. A subsidy contract may be awarded on any service which the Secretary, in his discretion, without public hearing, determines is not adequately served. Applicants for such contracts must meet the eligibility requirements of section 601 of this Act. The Secretary, in his discretion, may apply the provisions of section 605(a) and (b), 606(5) (6) (7), 608, 609, 610, and 611 of this Act, or any of them, to contracts entered into under this title.

"Sec. 1303. The amount of subsidy shall be computed in such manner as the Secretary in his discretion may determine. Any new system for determining subsidy shall contain incentives which can be reasonably expected to reduce unit costs of subsidy in the future. Such incentives may include the use of an objective index or indexes to govern the annual change in costs eligible for subsidy, the use of a formula or formulae reasonably relating the amount of subsidy payable to the performance or production of subsidized service, or the use of such other reasonable approaches to the determination of the amount of subsidy as the Secretary may in his discretion establish.

"Sec. 1304. Subsidy contracts entered into under this title shall provide that if, upon the expiration of the initial term of the contract, the Secretary does not approve the operator's application for a continuation of subsidy under this title, the operator shall have the option of selling ships built for operation under this title to the Government at a price not to exceed their depreciated book value."

Sec. 20. Section 27 of the Merchant Marine Act, 1920, is amended by inserting before the period at the end thereof a colon and a proviso to read as follows: "PROVIDED FURTHER, That this section shall not apply to merchandise transported by vessels constructed abroad subsequent to January 1, 1969, if the Secretary of Commerce determines, after notice and hearing, that the operators of vessels constructed or reconstructed in the United States after January 1, 1946, and whose costs have not been fully depreciated for Federal income tax purposes, will not be seriously adversely affected by the operation of such foreign built vessels in the domestic trade."

Sec. 21. Section 4132 of the Revised Statutes (46 U.S.C. 11) is amended as follows:

(1) By inserting in the first sentence immediately following the words "belonging wholly to citizens thereof;" the following: "vessels constructed abroad which are eligible to engage in the coastwise trade under the provisions of section 27 of the Merchant Marine Act, 1920;".

(2) By striking the colon and the proviso in the second sentence thereof and adding after the word "trade" the following: "except as provided in section 27 of the Merchant Marine Act, 1920."

Sec. 22. The Department of Transportation Act (80 Stat. 931; 49 U.S.C. 1651 et seq.) is amended by inserting the following new section after section 6 thereof:

"TRANSFER OF MERCHANT MARINE FUNCTIONS

"Sec. 6A. (a) There are hereby transferred to the Secretary of Transportation all functions, powers, and duties relating to the merchant marine now vested in the Secretary of Commerce, the Maritime Administration, the Maritime Administrator, and other offices and officers of the Department of Commerce, including those functions contained in the following:

(1) The Merchant Marine Act, 1920, as amended (41 Stat. 988; 46 U.S.C. 861 et seq.).

(2) The Merchant Marine Act, 1928, as amended (45 Stat. 689; 46 U.S.C. 891 et seq.).

(3) The Merchant Marine Act, 1936, as amended (49 Stat. 1985; 46 U.S.C. 1101 et seq.).

(4) The Shipping Act, 1916, as amended (39 Stat. 728; 46 U.S.C. 801 et seq.).

(5) The Merchant Ship Sales Act of 1946, as amended (60 Stat. 41; 50 U.S.C. App. 1735 et seq.).

(6) The Maritime Academy Act of 1958, as amended (72 Stat. 622; 46 U.S.C. 1381 et seq.).

(7) The Act of June 12, 1940, as amended (54 Stat. 346; 46 U.S.C. 1331 et seq.).

(8) The United States Fishing Fleet Improvement Act, as amended (74 Stat. 212; 46 U.S.C. 1401 et seq.).

(9) The Act of September 14, 1961, as amended (75 Stat. 514; 46 U.S.C. 1126b-1).

(10) The Act of June 13, 1957, as amended (71 Stat. 73; 46 U.S.C. 1177a), to the extent it relates to operating-differential subsidies.

(11) The Act of June 2, 1951, as amended (65 Stat. 59; 46 U.S.C. 1241a), to the extent it relates to the vessel operations revolving fund.

(12) The Act of July 24, 1956, as amended (70 Stat. 605; 46 U.S.C. 249 et seq.).

(13) The Act of August 9, 1954, as amended (68 Stat. 675; 50 U.S.C. 196 et seq.).

(14) Section 500 of the Transportation Act, 1920, as amended (41 Stat. 499; 49 U.S.C. 142).

(15) The Act of July 15, 1958 (72 Stat. 359; 46 U.S.C. 1152 note).

(16) Reorganization Plan No. 21 of 1950 (64 Stat. 1273; 46 U.S.C. 1111 note).

(17) Reorganization Plan No. 7 of 1961 (75 Stat. 840; 46 U.S.C. 1111 note).

"(b) The Secretary of Transportation may delegate any of the functions, powers, and duties transferred to him by this section to such officers and employees of the Department of Transportation as he designates, and may authorize successive redelegations thereof.

"(c) (1) There is hereby established within the Department of Transportation a Federal Maritime Administration.

"(2) The Federal Maritime Administration shall be headed by a Federal Maritime Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). The Administrator shall perform such duties as the Secretary of Transportation shall prescribe and shall report directly to the Secretary.

"(3) There shall be in the Federal Maritime Administration a Deputy Administrator who shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Administrator shall perform such duties as the Secretary of Transportation may prescribe."

Sec. 23. (a) Pending the initial appointment of the Federal Maritime Administrator, but not for a period exceeding 180 days, such officer or employee of the Executive Branch of the Government as the President shall designate under the provisions of this section shall serve as Acting Federal Maritime Administrator. The officer or employee so designated shall be entitled to the compensation attached to the office he regularly holds.

(b) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Secretary of Transportation by section 22 of this Act as the Director of the Bureau of the Budget determines shall be transferred from the Department of Commerce to the Department of Transportation at such time or times as the Director directs. Such further measures and dispositions as the Director of the Bureau of the Budget deems to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as he may direct and by such agencies as he may designate.

(c) The Maritime Administration, established within the Department of Commerce by Reorganization Plan No. 21 of 1950 (64 Stat. 1273), including the office of Deputy Maritime Administrator so established, and the office of Maritime Administrator established by Reorganization Plan No. 7 of 1961 (75 Stat. 840), is hereby abolished. The Secretary of Transportation shall provide for the termination of any outstanding affairs of the said Maritime Administration not otherwise provided for in this section.

Sec. 24. (a) Subsection 4(b)(1) of the Department of Transportation Act (80 Stat. 931; 49 U.S.C. 1653(b)(1)) is amended by inserting the following before the period at the end thereof:

> "; the Merchant Marine Act of 1920, as amended (41 Stat. 988; 46 U.S.C. 861 et seq.); the Merchant Marine Act, 1928, as amended (45 Stat. 689; 46 U.S.C. 891 et seq.); the Merchant Marine Act, 1936, as amended (49 Stat. 1985, title I; 46 U.S.C. 1101 et seq.); the Shipping Act, 1916, as amended (60 Stat. 41; 46 U.S.C. 801 et seq.); the Merchant Marine Ship Sales Act of 1946, as amended (60 Stat. 41; 50 U.S.C. App. 1735 et seq.)."

(b) The Act of August 1, 1956, as amended (70 Stat. 897; 46 U.S.C. 1241c), is amended by striking the words "Secretary of Commerce" where they appear therein and inserting in lieu thereof "Secretary of Transportation".

Sec. 25. All functions of all agencies under section 901(b) of the Merchant Marine Act of 1936, as amended (49 Stat. 2015; 46 U.S.C. 1241(b)), are hereby transferred to the President of the United States.

Sec. 26. This Act shall become effective upon enactment, except that sections 22, 23, 24, and 25 shall become effective ninety days after enactment or on such prior date after enactment as the President shall prescribe and publish in the Federal Register.

Sec. 27. This Act may be cited as "The Merchant Marine Act of 1968".

SECTION-BY-SECTION ANALYSIS OF A BILL

To amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program.

Sec. 1. Section 209(b) of the Merchant Marine Act, 1936, is amended to authorize appropriations in fiscal year 1970 in the amount of $110,000,000 for construction-differential subsidy, cost of national defense features and acquisition of used ships; $25,000,000 for each of the fiscal years 1970 through 1974 for research and development; and $30,000,000 for fiscal year 1970 for modernization of the reserve fleet.

Sec. 2. Section 211, which authorizes the Secretary to make certain determinations with respect to vessel requirements and comparative operating cost, is amended to include contract carriers. This term includes all non-liner operations by U.S. vessels except proprietary operations wherein the owner of the vessel also owns the cargo.

Sec. 3. Sections 501 through 503 are amended to completely revise the concept of construction-differential subsidy and the procedures for handling it. The amended section 501 provides for an annual recommendation by the Secretaries of Transportation and Defense as to the level and character of ship construction subsidy required, taking into consideration such factors as the long-run plans for emergency production and the need to maintain specialized skills. The section authorizes U.S. shipyards to apply for subsidy for construction of vessels either for U.S. or foreign documentation.

Section 502 is amended to create a new method for determining construction-differential subsidy. Subsidy is now computed on an individual ship basis, the amount paid being the excess of the lowest responsible bid over the estimate of the foreign cost of building the ship, with a ceiling of 55 percent. Under the amendment, subsidy rates would be developed for each type of vessel by estimating for each type the domestic and foreign construction costs. The rate for each type would be periodically redetermined but not more frequently than once each year. The ceiling of 55 percent, which is scheduled to revert to 50 percent on July 1, 1968, would be continued for two years.

Section 503 is amended to incorporate certain provisions of section 505 relating to the qualifications of shipbuilders and requiring the use of articles, materials, and supplies of U.S. manufacture in vessels constructed with subsidy (but allowing an exception when the vessel is being built for a foreign purchaser); to allow shipyards to submit contracts whose price is based on competitive bidding or negotiation; to allocate subsidy by favoring those contracts yielding the least subsidy per productive ton, taking into account the intended purpose and function of the vessel; to allow U.S. ship operators to receive operating subsidy on vessels constructed abroad if the Secretary approves the vessels' specifications and subject to certain conditions relating to the balance of payments and submission of contract data; and to provide procedures for the protection of undepreciated vessels in domestic trade from seriously adverse competition from subsidized or foreign built vessels.

Sec. 4. Sections 504, 505, and 506 are repealed. Section 504 authorized ship operators to finance construction of ships rather than purchase them from the Secretary pursuant to the provisions of the former section 502. This provision is no longer necessary.

Section 505 prescribed certain conditions relative to ship construction, established ceilings on shipbuilding profits and provided procedures for recovery of excess profits. Most of the conditions have been incorporated in the amended section 503. Excessive profits are now dealt with by the Renegotiation Act.

Section 506 contained restrictions on the use in domestic trades of vessels constructed with subsidy. The continued protection of the domestic trades is provided for through a hearing process.

Sec. 5. Sections 507, 508, 509, 510, and 511 are redesignated as sections 504, 505, 506, 507, 508, and 509.

Sec. 6. Section 507(a) is amended by altering the definition of "obsolete vessel" to eliminate the requirement for a finding by the Secretary, as a condition to accepting a vessel for trade-in, that the vessel is obsolete or inadequate for successful operation in foreign or domestic trade. Under the amendment, the Secretary must find only that the vessel should be replaced in the public interest. This amendment brings the section into conformity with the finding required in section 605(b) as a condition to permitting payment of operating subsidy for operation of a vessel that is beyond its statutory age. This amendment avoids the inconsistency of finding under one section that a vessel of a given type and age is obsolete or inadequate for successful operation and finding under another that it is to the public interest to subsidize a vessel of that type and age.

The definition of "new vessel" is amended to allow foreign construction of vessels to replace vessels being traded in.

Sec. 7. Subsection (a) of section 508 (formerly section 511(a)) is amended by deleting from the definition of "new vessel" the requirement that the vessel be built in the United States. This permits construction reserve funds to be used to purchase vessels abroad.

Sec. 8. Subsection (a) of section 601 is amended by deleting the requirement that vessels receiving operating subsidy be constructed in the United States.

Sec. 9. Section 605(c) is amended to eliminate the hearing required prior to authorizing additional subsidized service on a route already served by a subsidized carrier. The hearing process presently required has been used for dilatory purposes to defeat additional needed service. In lieu of a formal hearing process, the section is amended to require notice to all parties and an opportunity to present data and argument.

Sec. 10. Section 610 is amended to allow payment of operating subsidy on vessels built abroad.

Sec. 11. Section 801 is amended to permit the Secretary to prescribe the method of keeping books and records by an operator receiving subsidy under the proposed new title XIII.

Sec. 12. Section 802 is amended so that its provisions shall not apply to contracts for construction subsidy vessels entered into after the effective date of the Act. This section requires the deduction of construction subsidy from the price paid for a vessel when requisitioned by the United States. This is inconsistent with the concept that it is the shipyard, rather than the ship, which is being subsidized and that the operator should be permitted to purchase and sell ships in the United States or abroad at world market prices.

Sec. 13. Section 804 is amended to prohibit operators who receive operating subsidy under title XIII and their affiliates, from owning, chartering, acting as broker or agent for, or operating any foreign flag ship which competes with an American flag ship on an essential trade route, without the permission of the Secretary.

Sec. 14. Section 805 is amended to prohibit payment of operating subsidy to any contractor under title XIII if such contractor or an affiliate owns or operates any vessel engaged in the coastwise or intercoastal trade without the consent of the Secretary; to increase from $25,000 to $50,000 the limit on the amount of salary which can be taken into account for subsidy accounting purposes; and to extend to title XIII the prohibition against payment of subsidy for the operation of chartered vessels.

Sec. 15. Section 808 is amended to apply that section's prohibition against unjust discrimination to operators receiving subsidy under title XIII.

Sec. 16. Section 810 is amended to prohibit any operator receiving operating subsidy under title XIII from being a party to any agreement with other carriers which unjustly discriminates against any American flag carrier on an essential trade route.

Sec. 17. Section 901(b) is amended to allow vessels built abroad after January 1, 1969, to carry preference cargo, and to assure that vessels receiving operating subsidy carry preference cargo at world market rates.

Sec. 18. Section 905 is amended to extend to title XIII the definition of "citizen of the United States".

Sec. 19. A new title XIII is created in the Merchant Marine Act authorizing a new operating subsidy program. The purpose of the new program is to permit the development of new subsidy concepts which contain incentives sufficient to reduce unit costs of subsidy in the future. The Secretary is authorized to enter into subsidy contracts with operators of liner vessels and with owners of tanker and dry bulk vessels built after enactment of the title.

Sec. 20. Section 27 of the Merchant Marine Act of 1920 is amended to authorize transportation of goods in the domestic trade on foreign built vessels, subject to hearings to determine that there would be no seriously adverse effect on other vessels in the trade.

Sec. 21. Section 4132 of the Revised Statutes is amended to authorize registry in the United States of foreign built vessels and their use in coastwise trade, subject to the proviso set forth in section 20 of this Act. An obsolete proviso referring to the Act of March 3, 1891, is deleted. The Act referred to has been repealed.

Sec. 22. This section transfers the merchant marine functions from the Secretary of Commerce to the Secretary of Transportation and creates within the Department of Transportation the Federal Maritime Administration. The Administration would be headed by an Administrator who would be the official primarily responsible for administering the maritime policies and programs. There would also be created the position of Deputy Administrator. The Administrator would be appointed by the President, by and with the advice and consent of the Senate.

Sec. 23. This section provides for a temporary appointment to the position of Administrator; for the transfer of funds, positions, property, records, etc., in connection with the transfer of functions in section 22 24; and abolishes the Maritime Administration, and the positions of Maritime Administrator and Deputy Maritime Administrator.

Sec. 24. This section makes certain technical and conforming amendments necessitated by the transfer of functions in section 22.

Sec. 25. This section transfers to the President the responsibilities now vested in the heads of various agencies for the administration of the Cargo Preference Act.

Sec. 26. This section provides that sections 22, 23, 24, and 25 shall become effective ninety days following enactment unless an earlier effective date is prescribed by the President.

Sec. 27. This section provides that the Act shall be cited as "The Merchant Marine Act of 1968".

U. S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20590

STATEMENT OF ALAN S. BOYD, SECRETARY OF TRANSPORTATION, BEFORE THE SENATE COMMERCE COMMITTEE, SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES, ROOM 5202, NEW SENATE OFFICE BUILDING, 10:00 A.M., MONDAY, MAY 20, 1968

The Need Today

During this Nation's first century, a strong merchant fleet carried American commerce -- under the American flag -- to and from the seaports of the world.

From that early development of commercial water routes, our Nation grew to its present position as the world's largest trading power. In 1967 alone, more than 400 million tons of goods -- valued at over $36 billion -- moved in our oceanborne foreign trade. This was about one-sixth of the world's foreign trade, far more than any other country's share.

Our national growth and prosperity have depended in part on this foreign commerce. Our future growth and prosperity demand that our trade in the markets of the world continue to expand. In little more than a decade -- by 1980 -- our waterborne foreign trade should nearly double in size, reaching 700 million tons.

In the course of our trade expansion, the U. S. Merchant Marine has lost much of its vitality. Because of outmoded and uneconomical practices, capital and operating costs have skyrocketed. Lower construction costs in foreign shipyards, and lower operating costs of foreign vessels, have made it difficult for the Merchant Marine to compete with ships of other nations to carry our foreign trade.

Both the Merchant Marine and the shipbuilding industry have become increasingly dependent on Government subsidies. In fact, direct and indirect subsidies, together with preferential movement of Government cargo on U. S. flag ships, are largely responsible for keeping our Merchant Marine alive.

This dependence on Government support has led to detailed Government involvement in matters of management.

Over the past several years, programs to strengthen the industries have been subjected to exhaustive study and intensive debate -- within the Government and in public forums as well. There have been a large number of proposals aired recently on what to do about the Merchant Marine. All of them agree that changes and reforms are essential and long overdue. At the same time there is little agreement regarding the direction or details of reform.

The problem is not an easy one. For the last three years we have analyzed and discussed the many arguments and the suggested solutions. We have talked at length to all representatives of the merchant marine and shipyard industries -- both on the management and labor sides. The Administration has thoroughly considered the possible alternatives. Now more than ever we are convinced that the future of our Merchant Marine demands a shift from past policies: To provide the streamlining and flexibility that is needed to enable it to cope with the competitive world of today and the future. These conclusions emerge:

-- Subsidy support should be provided only to meet this Nation's security needs. Ship operating support should be clearly distinguished from ship construction support.

-- Although Federal support must continue if the Merchant Marine is to survive, Federal dollars alone will not solve the problems of the maritime industries.

-- The genius of the free enterprise system -- of skilled labor and profit-motivated businessmen, stimulated by competition -- must be called into full play if the industries again are to prosper.

-- Our present subsidy systems do not provide incentives to use fully the resources and talents of American industry.

A New Maritime Program

I am here this morning to present the Administration's Merchant Marine program.

We are convinced that the program being proposed is based on the kinds of public interest considerations which should guide the formulation of any Federal program.

Certainly, the public interest requires of the maritime program that we examine:

-- How much and what kind of a Merchant Marine we need to subsidize and for what purposes.

-- How much shipbuilding capacity we need to support and to what extent this should be supported by subsidized merchant marine programs -- rather than Navy or other programs for building and repairing government-owned vessels.

-- What specific policies and programs would best implement our determinations of the public interest in these areas.

We believe that America's maritime industries can reestablish their position of importance in the commercial life of this Nation, if they are

-- revitalized through the application of advanced industrial technology and sound business practices.

-- incorporated into an integrated transportation system.

The Administration proposes five major steps to accomplish these purposes to modernize our maritime industries:

1. Expand the scope and improve the system of ship operating subsidies, and establish the amount of subsidies according to the size of the fleet necessary for national security.

2. Reform the construction subsidy system and relate this subsidy to the Nation's need for an adequate shipyard capacity for national security.

3. Remove restraints on the freedom of shipowners to purchase ships in the world market -- treating shipowners like other American purchasers of transportation equipment and subject to the same restrictions on foreign investments and expenditures.

4. Expand maritime transportation research.

5. Transfer the Maritime Administration to the Department of Transportation.

Ship Operating Subsidies

Enduring through the years as a tradition, the Merchant Marine has declined as an industry. Its decline parallels its increasing dependence on Government support through subsidies of one kind or another. Subsidies -- direct and indirect -- have been a compromise answer to a difficult situation. They have prevented both the death and the nationalization of the Merchant Marine. At various times in our history, the Congress and the Executive Branch have shaped the principle of subsidy to meet the demands of the day.

The Merchant Marine Act of 1936, which established the basic policy under which we operate today, was a remarkable accomplishment for its time. Three decades ago -- and for a considerable period after -- it helped to promote our foreign trade and our national security. Now it is time to take another thorough and searching look at the Merchant Marine and the subsidy system that sustains it. In this time of budget stringency, Government spending must meet the most rigorous tests of necessity.

The Merchant Marine -- like any other program requiring Government support -- should be subsidized only to the extent necessary to meet a compelling national need. That need can be clearly identified: We must have adequate shipping to meet our military requirements and those urgent non-military demands that would prevail in time of emergency. It is only to this extent that our maritime fleet should be subsidized. Beyond this level, the fleet should meet the tests of the free market.

Subsidy Reform

The subsidy system itself is in clear need of reform. Instead of encouraging innovation and productivity, the system focuses attention on the subsidy dollar as a source of income. A new system must be found that will induce the industry to take full advantage of advancing technology, management ingenuity, and the resources of a skilled labor force.

The Government now subsidizes the ship operator to make up the differences between certain elements of his operating costs and those of his foreign competitors. This process has proven inadequate and unsound. For example:

-- It requires a network of Government auditors in the steamship company's offices, as well as an overseas staff of Government employees to provide estimates of foreign operating costs.

-- It imposes cumbersome administrative procedures upon the operator, who is forced to make a detailed justification for each of his subsidy-related costs.

-- It requires strict adherence to trade routes and restricts the operator from taking advantage of shifting market conditions.

-- It gives the operator little incentive to hold down costs, since increases are borne by the Government.

-- This direct subsidy has only been available to a part of the fleet.

To correct these deficiencies -- and at the same time to assure operators a reasonable rate of return on their investments -- the present system must be restructured to promote business judgment and operational flexibility, and minimize Federal involvement and intervention. The restructured system should be made available to other categories of ship operators to replace indirect subsidies they now receive.

The Administration recommends legislation to authorize the Secretary of Transportation to enter into contracts with qualified applicants to test more productive and competitive operating subsidy systems.

Over the past few years, a number of alternative subsidy systems have been studied and developed. These systems will be examined thoroughly. The Government and operators together will examine these systems and experiment with the most promising. Different systems can very likely be tried simultaneously, in different trading areas. Whichever are found the most productive through actual experience will then be put into effect. All operators will be required to use the systems selected to be eligible for subsidy support -- new operators upon entry and the present subsidized operators upon expiration of their current contracts.

Bulk Cargoes

Dry bulk cargoes total about 35 percent of our foreign trade. More than 140 million long tons are carried each year. By 1980, that trade is expected to rise to over 380 million tons. Very little of this goes on U. S. flag ships, however -- because the American ships in this bulk trade are old and inefficient and unable to compete for commercial shipments. The answer is to promote the development of an efficient and up-to-date U. S. flag bulk carrier fleet. At the present, this cannot be done because operating subsidies are not extended to bulk carriers.

The Administration recommends legislation to authorize a system of innovative operating subsidies, such as those described above, for new bulk carriers to be built under a new construction subsidy program -- which is detailed later in this testimony.

Passenger Ships

Passenger ship operations under the American flag are costly in subsidies, and return only minor benefits. The sharply accelerating trend to air travel raises serious questions about the economic future of this mode of transportation.

At present, about $50 million goes annually to the support of 13 ships -- which are turning more and more to luxury cruises. This is equivalent to $275 for every passenger carried.

Once important as emergency troop transports, the defense value of these vessels is now minimal. Their subsidization can no longer be justified on this basis.

Operators of passenger ships will be encouraged to terminate their subsidy contracts voluntarily so that the funds can be allocated to more productive purposes.

Nuclear Ship Program

There is serious doubt as to the attractiveness and wisdom of proceeding with a broader nuclear ship program at the present time. It appears that power reactors of the relatively small sizes required for merchant ship propulsion will continue to be non-competitive with oil over the foreseeable future.

Construction Subsidies

At this time, the Administration does not seek increased subsidies for the construction of ships. For the present, I believe the construction subsidy program should be held at a level of about $110 million, roughly its present level. For the future, however, we need to know how much will be required to meet national emergency demands for shipbuilding capability.

The proposed legislation would authorize the Secretaries of Defense and Transportation to recommend jointly to the President the level and character of ship construction subsidies.

Each year the two Secretaries will:

-- Determine the national emergency need for private shipyard activity and capacity.

-- Ascertain how much and what kind of Federal support is necessary -- beyond that provided through Navy and other programs which build Government vessels -- to maintain an adequate emergency capability for ship construction and repair.

-- Determine to what extent this additional support should be provided by subsidies for merchant marine construction.

In making their determinations the Secretaries will consider such factors as long-range plans for emergency construction or repair, and the need to maintain specialized skills.

<u>For Greater Flexibility</u>

The present construction subsidy system is too inflexible. It does not encourage shipyards to propose a standardized design which several operators can use. It fosters, instead, costly individual designs. Under existing practice, an operator submits to the Maritime Administration a design tailored to his individual needs -- for one ship or a few. This individual design is then put out for bids among the shipyards. The bids are generally high -- reflecting the cost of constructing just a few custom-built ships. The small market for commercial ships in the U. S., and limited competition, add further to the cost of ships built in American yards. In large measure, these costs are borne by the taxpayer -- since the Federal subsidy to the ship buyer is the difference between the shipyard's high price and the estimated cost the operator would pay in a foreign shipyard.

The construction subsidy program should be made more flexible and better able to produce ships less expensively.

The Administration recommends legislation to encourage the shipyard to design and develop ships which can be built with the modern production techniques that have made our aircraft industry predominant in the world today.

Under this system, this subsidy would be paid directly to the shipyards. Shipbuilders would be told precisely what proportion of construction costs the Government would pay.

-he yards would then compete with each other for sales to domestic or foreign ship purchasers on the basis of what they could construct with available subsidy funds. The proposals calling for the least subsidy dollar per productive unit would receive the subsidy.

With preference thus going to shipyards producing at the lowest cost per ship, yards will be encouraged to design and sell their ships on an efficient multiple-production basis -- just as aircraft companies aggressively market their designs to the airlines.

Foreign Ship Purchase

In the Nation's infancy, American shipowners were required by law to buy only American built ships. This was necessary then for the development of a shipbuilding industry. Today, America's ship construction industry is the largest in the world by nearly any measure. It can draw upon the country's great technological resources. Its size and health are ensured by a naval construction and repair program which infuses more than $2 billion of Government funds into the industry every year. Yet our merchant shipowners are under almost the same constraints as those of two centuries ago. To engage in domestic trade, or to be eligible for a subsidy, they must buy only in U. S. shipyards.

Since merchant ship work under Government subsidy amounts to less than 10 percent of the shipbuilding industry's business, this restriction cannot be justified as essential to the industry's health. An American operator should not have to base his plans for purchases of new ships on the amount of construction subsidies available.

After the necessary level of ship construction in U. S. shipyards has been reasonably assured, American ship operators will be permitted to purchase their vessels in the world shipbuilding market and these ships would be accorded the same treatment as ships built in American yards.

To protect our balance of payments position, controls will be exercised in accord with our programs restraining foreign expenditures and investments. By requiring the cost of the vessels to be financed through foreign loans, we can avoid a drain on American dollars. Ships built in foreign shipyards for documentation under the U. S. flag would be required to meet all U. S. standards of safety and construction. They would be eligible for all privileges available to U. S. flag operators in the U. S. foreign trade. American flag operators in domestic trade would also be permitted to employ a limited number of foreign-built ships -- with procedures to assure established operators will not be harmed.

Reserve Funds

The maritime industry -- as do many other industries -- requires large amounts of capital for the construction of modern, efficient equipment. At present, certain ship operators are not taxed currently on funds put in reserve and used for this purpose. These operators therefore pay taxes on different terms from other ship operators and other businesses. This system is complex and inequitable.

The Administration program contemplates that the setting aside of these funds will be terminated at the expiration of the present contract commitments. The future capital investments of the Merchant Marine can then come under the depreciation guidelines and the investment credit rules of the Treasury Department similar to those governing other industries. We also contemplate orderly liquidation -- consistent with existing contracts -- of present reserve funds over a reasonable period of time.

In addition, the Secretary of the Treasury will undertake a review of our tax law as it affects the shipping industry including U. S. owned ships under foreign flags, with a view toward recommending other legislation to remove unjustified tax advantages.

National Defense Shipping Needs

National Defense Reserve Fleet

The National Defense Reserve Fleet was established at the end of World War II. It has served this Nation well in two major emergencies. During periods of crisis, the breaking-out of this inactive fleet has been an important factor in preserving our national security and in maintaining stable rates in the world shipping market. This method of meeting peak emergency needs is less expensive in limited emergencies and causes less disruption of commercial service than other alternatives.

To improve this capability, we ask authorization for an initial appropriation of $30 million for Fiscal 1970, to revitalize the National Defense Reserve Fleet.

These funds will be used to build a limited number of new vessels of austere type, and to convert some relatively unused reserve troop ships into general cargo ships. These ships will be retained in the reserve fleet for emergency use.

ıst Deployment Logistic Ship Program

No expansion of the Merchant Marine will fill the military need for rapid-response sealift. This vital need can best be met through the Fast Deployment Logistic Ship program.

Fast Deployment Logistic Ships (FDL's) will not compete with the Merchant Marine. The ships are designed for quick and flexible military response. They can operate without ports, if necessary. They are an essential part of our strategic planning. They must be available at all times to enhance our national security. Last year the Congress did not act on the Administration's recommendation that an FDL program be started.

This year, the budget includes a request for $184 million to fund this important program. The Administration urges the Congress to approve it promptly.

Expanded Research

The Administration recommends a 5-year program of $25 million annually commencing in Fiscal 1970, to increase both basic and applied maritime research activity -- conducted in ooperation with private industry.

The goal of this research will be to improve the competitive position of the U. S. maritime industries by acquiring new knowledge of:

-- ship operations and design,

-- cargo handling systems on ships and ashore,

-- port facilities,

-- basic hydrodynamics related to modern merchant ship hull forms,

-- ship construction methods,

-- integration of sea and land systems.

Management-Labor Responsibility

The program of reforms that I have outlined will aid in bringing the U. S. Merchant Marine into today's competitive world and make it an active and productive part of our commercial life and our future growth.

The Government can go only a part of the way toward this goal, however. Essential steps must be taken by the elements of the maritime industries themselves -- management and labor in the operating Merchant Marine, in the shipbuilding industry, and in allied industries. Federal subsidy dollars must not be dissipated through price inflation or excessive wage increases. Otherwise, their potential benefits would never be realized. America's maritime capabilities would remain weak and ineffective. An important part of the program being recommended today is to insure that wages will be stabilized and that bid prices will be reasonable and competitive.

Wage Structure Stabilization and Work Stoppages

If the U. S. Merchant Marine is to respond to the needs of the American shipper, both management and labor must work closely to

-- eliminate the recurring interruptions in service caused by work stoppages. Such interruption destroys confidence in U. S. flag carriers. Shippers consequently turn to foreign flag vessels for their needs.

-- stabilize the maritime industry's wage costs.

A series of labor-management agreements, negotiated in 1965 to help assure wage stability, have in practice accomplished the opposite. Under these agreements, if the members of one union receive a wage increase or other benefit, other maritime unions can reopen their contracts through a "me too" clause and demand arbitration to obtain a matching increase. By the time several unions have received such increases, the first union is in a position to assert that it is once again behind the others -- and the cycle starts over again.

Because of this practice, employment costs in the industry have risen more than 30 percent since 1965. These costs increase Federal expenditures through the operating subsidy program and shipping costs on Government cargoes. They diminish the ability of the U. S. Merchant Marine to compete with foreign fleets. Not only do spiraling employment costs threaten the industry with economic ruin, they imperil the American public as well, for they have a shattering impact on our Nation's wage-price stabilization objectives.

We call upon management and labor -- working with the Secretaries of Labor and Transportation -- to begin discussions promptly to solve this problem.

An Integrated Transportation System

No improvements we can make in our maritime fleet will permit it adequately to meet America's need today unless it is fully integrated into a unified national system of transportation. When the President signed the Department of Transportation Act in October 1966, he expressed regret that the new Department did not include the Maritime Administration. He expressed hope that the Congress would reexamine its decision. This reassessment is now vital to our maritime future.

The Administration recommends legislation to transfer the functions of the Maritime Administration to the Department of Transportation.

This step will bring increased recognition to ocean shipping in the transportation policy councils of the Executive Branch.

The Department of Transportation was created to promote a more efficient national transportation system. This cannot be fully accomplished so long as the maritime component of the transportation system remains outside the Department's urisdiction.

The Maritime Administration itself suffers in its isolation from the new technology and promotional support which the Department now provides to other elements of our national transportation system. Potential developments which hold great promise for maritime commerce affect other modes of transportation as well. Ports, for example, must provide facilities which can rapidly handle cargoes arriving and leaving by rail and highway. Container systems must be developed which can be economically used on all modes of transportation, so cargoes can move without interruption from origin to destination.

Transfer of the Federal Government's maritime programs to the Department of Transportation will permit fuller coordination of all our research resources for the improvement of our entire transportation system. Each mode will benefit greatly. But most important, the Nation's intricate and extensive transportation network will be strengthened, and better able to serve the complex needs of our society. This organizational change is the key to a truly effective maritime program. Legislation to accomplish this and other elements of the program I have outlined is attached as an appendix to this statement.

Conclusion

A strong and healthy Merchant Marine has been a proud element of our national strength. It can be so again.

It is deeply in the national interest that we revitalize our Merchant Marine and make it both effective and competitive -- a maritime service which is not just barely kept alive by Government subsidies and Government cargoes, but one able to attract a significant share of our commercial trade as well.

I believe the program I have outlined will accomplish this. With its passage, and with the cooperation of maritime management and labor, we can realize the goals we have set. This program provides the cornerstone on which we can build anew the maritime tradition of the American past.

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VI

90TH CONGRESS
1ST SESSION

H. R. 13940

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1967

Mr. GARMATZ (for himself, Mrs. SULLIVAN, Mr. CLARK, Mr. ASHLEY, Mr. DINGELL, Mr. DOWNING, Mr. BYRNE of Pennsylvania, Mr. ROGERS of Florida, Mr. STUBBLEFIELD, Mr. MURPHY of New York, Mr. DOW, Mr. KARTH, Mr. HATHAWAY, Mr. JONES of North Carolina, Mr. HELSTOSKI, Mr. FALLON, and Mr. FRIEDEL) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 209 (b) of the Merchant Marine Act, 1936 (46 U.S.C. 1119 (b)), is amended by inserting before the period at the end thereof a colon and the following: "*Provided, however*, That for each of the fiscal years 1969 through 1973, there is authorized to be appropriated (1) for construction-differential subsidy and the cost of national defense features incident to construction, reconstruction, or reconditioning of ships for operation in foreign or noncontiguous domestic commerce, and for the acquisition of used ships pursuant to section 510 of this Act, $300,000,000, to remain available until expended; and (2) for research and development, $25,000,000, to remain available until expended. For fiscal year 1969, there is also authorized to be appropriated for reconstruction of the reserve fleet, $30,000,000, to remain available until expended."

SEC. 2. Section 211 of the Merchant Marine Act, 1936 (46 U.S.C. 1121), is amended as follows:

(1) Subsection (b) is amended by inserting at the end thereof, immediately before the semicolon, a comma and the words "or which should be employed as contract carriers".

(2) Subsection (d) is amended by inserting after the words "services, routes, and lines" a comma and the words "or as contract carriers" and a comma, and by inserting after the words "service, route, or line" a comma and the words "or contract carrier".

SEC. 3. Section 501 of the Merchant Marine Act, 1936 (46 U.S.C. 1151), is amended as follows:

(1) By striking the first sentence of subsection (a) and inserting in lieu thereof the following: "Any privately owned shipyard or proposed shipowner who is a citizen of the United States may make application to the Secretary of Commerce for a construction-differential subsidy to aid

in the construction of a new vessel to be documented under the laws of the United States and to be used in the foreign commerce of the United States."

(2) By striking out of the second sentence of subsection (a) the words "the applicant" and inserting in lieu thereof the words "the proposed owner of the vessel is a citizen of the United States and".

SEC. 4. Section 502(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1152(a)), is amended by striking the word "applicant" wherever it appears and inserting in lieu thereof the words "proposed shipowner".

SEC. 5. Section 502(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1152(b)), is amended as follows:

(1) By striking the first sentence and inserting in lieu thereof the following: "The amount of the reduction in selling price which is herein termed 'construction-differential subsidy' shall be computed by taking the excess of the fair and reasonable estimate, as determined by the Secretary, of the cost of constructing a type of vessel in United States shipyards (excluding the cost of any features incorporated in the vessel for national defense uses, which shall be paid by the Secretary in addition to the subsidy), over the fair and reasonable estimate of cost, as determined by the Secretary, of the construction of that type vessel (excluding national defense features as above provided) in a foreign shipbuilding

center which is deemed by the Secretary to furnish a fair and representative example of the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed, and expressing the result as a percentage of the fair and reasonable estimate, as determined by the Secretary, of the cost of construction of that type vessel in United States shipyards, and applying such percentage to the lowest responsible bid. Subsidy rates shall be computed separately for different types of vessels and shall be periodically recomputed but not more frequently than once each year. In making his foreign cost estimate, the Secretary shall review and consider any foreign cost estimates and substantiating information submitted by operators, shipyards, or his staff."

(2) By striking the date "June 30, 1968" and inserting in lieu thereof the words "the expiration of three years from the date of enactment of this amendment".

SEC. 6. Section 504 of the Merchant Marine Act, 1936 (46 U.S.C. 1154), is amended as follows:

(1) By inserting the designation "(a)" after the section number.

(2) By striking the word "applicant" wherever it appears in the first sentence and inserting in lieu thereof the words "proposed shipowner".

(3) By striking in the second sentence thereof the word

"bid" wherever it appears and inserting in lieu thereof the words "bid or negotiated price".

(4) By inserting at the end of the third sentence thereof before the period a comma and the words "or the negotiated price".

(5) By inserting after the first sentence thereof the following new sentence: "Alternatively, the Secretary may, in accordance with terms and conditions to be prescribed by him, permit the proposed shipowner to submit a negotiated price together with backup cost details and evidence that the price is fair and reasonable."

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

"(b) Where a shipyard is the applicant, it may, in accordance with terms and conditions prescribed by the Secretary, request construction-differential subsidy based upon a price which has been negotiated with the proposed shipowner. If the Secretary considers the negotiated price to be fair and reasonable, he may become a party to a contract between the shipyard and the shipowner and agree to pay the cost of national defense features and construction-differential subsidy computed under section 502 (b) of this Act. If the Secretary determines that the negotiated price is not fair and reasonable, he may request renegotiation in an effort to arrive at a fair and reasonable price. As an alternative to accepting a negotiated price, the Secretary may, with the consent of the shipyard applicant, request competitive bids on the proposal, in which case the applicant shipyard may be a bidder. In this event, the Secretary may become a party to a contract between the lowest competitive bidder and the proposed shipowner."

SEC. 7. Subsection (1) of section 510(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(a)), is amended to read as follows:

"(1) The term 'obsolete vessel' means a vessel or vessels each of which is of not less than one thousand three hundred and fifty gross tons; which has been owned by a citizen or citizens of the United States for at least three years immediately prior to the date of acquisition hereunder; and which in the judgment of the Secretary should be replaced in the public interest."

SEC. 8. Section 801 of the Merchant Marine Act, 1936 (46 U.S.C. 1211), is amended by striking "titles VI or VII" and inserting in lieu thereof "titles VI, VII, or XIII".

SEC. 9. Section 804 of the Merchant Marine Act, 1936 (46 U.S.C. 1222), is amended by striking the words "operating-differential subsidy under title VI" and inserting in lieu thereof the words "operating subsidy under titles VI or XIII".

SEC. 10. Section 805 of the Merchant Marine Act, 1936 (46 U.S.C. 1223), is amended as follows:

(1) Subsection (a) is amended by inserting after the words "title VI" the words "or title XIII".

(2) Subsection (c) is repealed.

(3) Subsection (d) is amended by inserting "under titles VI or XIII of this Act" following the word "contractor" in the last sentence.

SEC. 11. Contractors with the United States are released from the provisions of their contracts which were inserted pursuant to the provisions of section 805(c) of the Merchant Marine Act, 1936 (46 U.S.C. 1223(c)).

SEC. 12. Section 810 of the Merchant Marine Act, 1936 (46 U.S.C. 1227), is amended by striking the words "operating-differential" and inserting in lieu thereof the word "operating", and by striking the words "title VI" and inserting in lieu thereof the words "titles VI or XIII".

SEC. 13. Section 905 of the Merchant Marine Act, 1936 (46 U.S.C. 1244(c)), is amended as follows: By striking in subsection (c) the words "under title VI" and inserting in lieu thereof the words "under titles VI or XIII".

SEC. 14. The Merchant Marine Act, 1936, is amended by inserting a new title X to read as follows:

"TITLE X—AID IN DEVELOPING, CONSTRUCTING, AND OPERATING PRIVATELY OWNED NUCLEAR-POWERED MERCHANT SHIPS

"SEC. 1001. The purpose of this title is to further implement the policy declared in section 101 of this Act, by fostering at the least cost to the United States the development, construction, and operation of privately owned nuclear-powered merchant ships whose designs embody significant departures from the designs of existing nuclear-powered merchant ships which may lead to reduction of the cost of constructing and operating future nuclear-powered merchant ships.

"SEC. 1002. The Secretary of Commerce is authorized to invite from citizens of the United States proposals for the development and construction of nuclear-powered merchant ships for operation in the domestic or foreign commerce of the United States, including trade on the Great Lakes. Proposals shall be invited only for the development and construction of nuclear-powered merchant ships (1) of types and general specifications (whether dry cargo, liquid bulk carrier, or other) determined by the Secretary of Commerce, and (2) with nuclear propulsion systems of general types and conceptual designs which the Atomic Energy Commission has determined could reasonably be expected to accomplish nuclear power base development program ob-

jectives more quickly, more effectively, or at lower cost than other nuclear propulsion systems (these would include, without limitation, objectives of dependability, reliability, operability, and the acquisition of data that would be of value to the future development of merchant marine nuclear propulsion systems). Each proposal shall include a detailed description of the proposed ship or ships; their contemplated use in commerce; the proposed development, construction, and operating programs; the technical justification and detailed estimate of development, construction, and operating costs; the amount of aid applied for itemized separately for the development, construction, and operating programs; and such other information as the Secretary directs.

"SEC. 1003. The Secretary, in cooperation with the Atomic Energy Commission, shall evaluate all proposals determined to be responsive to the invitation and shall select from them the proposal or proposals which will most closely carry out the purposes of this title. If the Secretary determines that the person who submitted a selected proposal, although such person may have had no experience in the operation of nuclear-powered ships, possesses the ability, experience, financial resources, and other qualifications necessary to enable him to operate and maintain ships in that area of the domestic or foreign commerce of the United

States (including trade on the Great Lakes) in which he proposes to operate the proposed ship or ships, the Secretary may negotiate the award of a contract with such person (hereafter called the applicant) for the development and construction of the proposed ship or ships. The Secretary may require such modifications in the proposed ship or ships as he deems desirable, taking into account the views of the Atomic Energy Commission with respect to modifications of the nuclear propulsion system, and the views of the Secretary of Defense with respect to national defense features. The Secretary may agree to provide so much of the aid authorized by section 1004 of this title as he determines is necessary to carry out the purposes of this title, taking into consideration the financial risk to the applicant, and the contribution which the development, construction, and operation of the proposed ship or ships may make toward carrying out the purposes of this title.

"SEC. 1004. (a) (1) In connection with the development and construction of vessels proposed and selected pursuant to section 1003, the Secretary may offer the following assistance:

"(A) With the scientific and engineering advice of the Atomic Energy Commission, he may assist in negotiating the award of and become a party to contracts between the applicant and the developer for the

development of the proposed nuclear-powered merchant ship or ships, including the first fuel cores. He may agree in such contracts to pay the developer all of, or part of, the excess of the cost of developing the proposed ship or ships, including national defense features and the first fuel cores, over the estimated fair and reasonable cost of developing a comparable conventional ship or ships without national defense features.

"(B) He may become a party to contracts between the applicant and the builder for the construction of the proposed nuclear-powered merchant ship or ships, and may agree in such contracts to pay the builder all of, or part of, the excess of the cost of constructing in the United States the proposed ship or ships, including national defense features and the first fuel cores, over the estimated average weighted fair and reasonable foreign cost of constructing a comparable conventional ship or ships without national defense features: *Provided, however,* That if the ship or ships are to be operated in the domestic trade (except the noncontiguous domestic trade) aid under this paragraph is limited to the excess of the cost of constructing in the United States the proposed ship or ships, including national defense features and the first fuel cores, over the estimated fair and reasonable cost of constructing a comparable conventional ship without national defense features in the United States.

"(2) The Secretary may also assist in training crews for the ships; plan and design or assist in planning and designing appropriate shore facilities to service the ships; make available to the applicant, with the consent of the Atomic Energy Commission, appropriate classified information; provide research and development in Government laboratories which have facilities, personnel, or equipment not available in private laboratories, with the consent of the department or agency which operates the laboratory, and with or without charge to the applicant; and provide, without charge, design review services, ship construction inspection services, and ship operation advisory services.

"(3) If, under section 184 of the Atomic Energy Act of 1954 (42 U.S.C. 2234), the Atomic Energy Commission consents to the creation of a mortgage or lien on the nuclear-powered merchant ship, and if the loan and mortgage are eligible for insurance under title XI of this Act, the Secretary may insure under that title the interest on and the unpaid balance of the principal amount of the loan and mortgage. In determining the applicant's eligibility, the Secretary is not required to make the finding required by subsection (c) of section 1004 of this Act. The Secretary may make the findings required by subsection (a) (1) and

(b) (1) of section 1104 even though the applicant has had no experience in the operation of nuclear-powered merchant ships. The applicability of section 184 of the Atomic Energy Act of 1954 to the ship shall not prevent a mortgage on the ship from being a preferred mortgage under the Ship Mortgage Act, 1920.

"(b) In providing the aid specified in subsection (a) of this section, the Secretary may, upon payment of the costs, and with the consent of the department or agency concerned, avail himself of the use of licenses, information, services, facilities, offices, and employees of any executive department, independent establishment, or other agency of the Government, including any field service thereof.

"(c) Section 505 (a) of this Act shall apply to all ships whose construction is aided under this title.

"SEC. 1005. Each applicant for aid under this title shall agree that if the ship, after its construction is completed, cannot at any time be operated for a period of more than thirty days because of an interunion dispute in which the fact that the ship is nuclear powered is an important element, the owner will, if so directed by the Secretary of Commerce, place the vessel up for sale at competitive bidding, with a minimum price in the amount that would be paid if the vessel were requisitioned for title, and on such other terms and conditions as the Secretary of Commerce determines will be conducive to the continued operation of the ship. This obligation shall run with the title to the vessel.

"SEC. 1006. Any ship developed and constructed with aid under this title shall be documented under the laws of the United States and shall remain so documented for twenty-five years or so long as it is propelled by nuclear propulsion, whichever is longer.

"SEC. 1007. Ships whose construction is aided under this title are eligible to receive operating-differential subsidy under whatever system is in force when the ships go into operation if the applicant qualifies under the statute.

"SEC. 1008. Authority to contract for the development or construction of ships under this title expires at midnight on the last day of the sixtieth month following the month in which this title is enacted."

SEC. 15. Section 152 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2182), is amended as follows:

(1) By inserting in the first sentence thereof immediately after the words "with or for the benefit of the Commission" a comma and the following: "or with the Secretary of Commerce under the authority of title X of the Merchant Marine Act, 1936, as amended".

(2) By striking the words "by the Commission" in

the first sentence and inserting the words "by the Commission or the Secretary".

SEC. 16. Subsection (l) of section 170 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2210(l)), is amended by inserting in the first sentence thereof immediately before the period a comma and the following: "or any ship whose development or construction is aided under title X of the Merchant Marine Act, 1936, as amended".

SEC. 17. The second sentence of the second paragraph of section 607(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(b)), is amended by inserting after the words "authorized under section 613 of this title" a comma and the words "or new nuclear fuel cores for vessels" and a comma.

SEC. 18. Section 1104(a)(5) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(5)), is amended to read as follows:

"(5) shall secure bonds, notes, or other obligations bearing interest (exclusive of premium charges for insurance, and service charges, if any) at rates not to exceed such per centum per annum of the principal obligation outstanding as the Secretary of Commerce determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Department of Commerce;"

SEC. 19. Section 1106 (2) of the Merchant Marine Act, 1936 (46 U.S.C. 1272 (2)), is amended by inserting after the words "for reconditioning or reconstructing the mortgaged property" the words "or to provide a new nuclear fuel core for the mortgaged property".

SEC. 20. The Merchant Marine Act, 1936, is amended by inserting a new title XIII to read as follows:

"TITLE XIII—EXPERIMENTAL OPERATING SUBSIDY

"SEC. 1301. The Secretary of Commerce is authorized to enter into five-year experimental contracts with liner operators for the payment of operating subsidy for the operation of liner vessels in the foreign commerce of the United States and with owners of dry bulk vessels built after the enactment of this title for operation as contract carriers in the foreign commerce of the United States, subject to such terms and conditions as the Secretary may determine.

"SEC. 1302. A subsidy contract may be awarded on any service which the Secretary, in his discretion, without public hearing, determines is not adequately served. Applicants for such contracts must meet the eligibility requirements of section 601 of this Act. The Secretary, in his discretion, may apply the provisions of sections 605 (a) and (b), 606

(5), (6), and (7), 607 (a), (b), (c), (d), (e), (f), and (g), 608, 609, 610, and 611 of this Act, or any of them, to contracts entered into under this title. He may also, in his discretion, apply the provisions of section 607 (h) to contracts entered into under this title with liner operators.

"SEC. 1303. The amount payable during the first year of the subsidy contract shall not exceed the difference between the costs incurred in operating the ship for insurance, wages, maintenance and repair, and the cost of such items incurred in the operation of a comparable ship under the flag of a foreign country whose ships are substantial competitors of the subsidized ship. During the subsequent years of the contract, the amount of subsidy shall be computed in such manner as the Secretary in his discretion may determine. In developing any new system the Secretary shall be guided by the overriding principle that the system must contain incentives which can be reasonably expected to reduce unit costs of subsidy in the future. Such incentives may include the use of an objective index or indices to govern the annual change in costs eligible for subsidy, the use of a formula or formulae reasonably relating the amount of subsidy payable to the performance or production of subsidized service, or the use of such other reasonable approaches to the determination of the amount of subsidy as the Secretary may in his discretion establish.

"SEC. 1304. Such contracts shall provide that upon their termination the operator shall have the option of receiving a contract for the operation of his vessels under whatever subsidy system is in force at that time, or of selling his ships to the Government for a price not to exceed their depreciated book value."

SEC. 21. (1) There is hereby established a Commission to be known as the Commission on American Shipbuilding (hereinafter referred to as the "Commission"). The Commission shall be composed of six members, appointed by the President. At least one member shall be from the United States shipbuilding industry. Members of the Commission shall be appointed for the life of the Commission. The President shall designate one of the members of the Commission as Chairman. Four members of the Commission shall constitute a quorum.

(2) Members of the Commission shall each be entitled to receive $100 per diem when engaged in the actual performance of duties vested in the Commission, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.

(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

(4) The Commission shall have the power to appoint and fix the compensation of such personnel, as it deems advisable, subject to the civil service laws and the Classification Act of 1949, as amended.

(5) The Commission may procure, in accordance with the provisions of title 5 of the United States Code, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $100 per diem, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.

(6) The Commission shall conduct a study of the extent to which Federal assistance to the private shipbuilding industry in the United States is necessary to preserve the competitive position of such industry and to preserve a national capability for the building and repair of United States merchant and United States naval ships.

(7) The Commission shall not later than three years after the date of enactment of this Act submit a comprehen-

sive report of its findings and recommendations to the President and to the Congress, and thereafter shall cease to exist.

SEC. 22. The Merchant Marine Act, 1936, is amended by inserting a new title XIV to read as follows:

"TITLE XIV—REPLACEMENT AND EXPANSION OF UNITED STATES NONSUBSIDIZED MERCHANT AND FISHING FLEETS

"SEC. 1401. AUTHORITY TO NEGOTIATE CONTRACTS.—(a) For the purpose of promoting the construction or acquisition of new merchant vessels or the substantial reconstruction of existing merchant vessels and for other purposes authorized by this Act, the Secretary of Commerce may enter into contracts not to exceed twenty years with any person who is a citizen of the United States if the Secretary determines the person possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the merchant vessels as to meet competitive conditions and promote United States domestic or foreign commerce.

"(b) For the purpose of promoting the construction of new fishing vessels, the Secretary of the Interior may enter into contracts not to exceed twenty years with any person who is a citizen of the United States if the Secretary determines the person possesses the ability, experience, financial resources, and other qualifications necessary to enable him

to conduct the proposed operations of the fishing vessel to meet competitive conditions and promote the utilization of fishery resources.

"SEC. 1402. TERMS AND CONDITIONS OF CONTRACT.—The Secretary shall include in each contract a provision—

"(a) that any new vessel constructed under a contract will be built in a shipyard in the United States under a contract with a shipbuilder entered into after the effective date of this Act;

"(b) that any new vessel acquired under a contract will be one that was built in a shipyard in the United States for the United States Government under a contract with a shipbuilder entered into after the effective date of this Act;

"(c) that any vessel substantially reconstructed under a contract will be one that was built in a shipyard in the United States and will be substantially reconstructed in a shipyard in the United States under a contract with a shipbuilder entered into after the effective date of this Act;

"(d) that any vessel constructed, acquired, or substantially reconstructed under a contract will be of a type, size, and speed that the Secretary determines to be suitable for use on the high seas or Great Lakes;

"(e) that any vessel constructed, acquired, or substantially reconstructed under a contract negotiated under section 1 (a) will be of a type which the Secretary of the Navy certifies is suitable for economical and speedy conversion into a naval auxiliary or otherwise suitable for use by the United States in the event of war or national emergency;

"(f) for the creation and maintenance of a capital reserve fund;

"(g) for the approximate number and type of vessels which the contractor will construct, acquire, or substantially reconstruct subject to modifications and extensions upon a showing to the satisfaction of the Secretary of acceptable reasons for modifications or extensions;

"(h) for additional terms and conditions consistent with this Act, that the Secretary determines to be necessary to protect the interest of the United States;

"(i) for the early replacement of any war-built vessel used in the movement of cargo under section 901 (b), Merchant Marine Act, 1936, as amended;

"(j) that each contractor agrees not to incur any purchase money indebtedness with respect to any vessel constructed, acquired, or substantially reconstructed under a contract without the prior consent of the Secretary;

"(k) that upon failure of the contractor to con-

struct, acquire, or substantially reconstruct any vessel as provided in the contract as modified or extended, all deposits of the contractor will be withdrawn from the fund with the same tax consequences as result from withdrawals from the funds created by section 607, Merchant Marine Act, 1936, as amended, and no further deposits may be made by the contractor until a new contract is negotiated; and

"(l) that the contractor agrees that any vessel constructed or acquired under a contract will remain documented under the laws of the United States for twenty-five years from the date of its delivery by the shipbuilder and any vessel reconstructed under a contract will remain documented under the laws of the United States for the remainder of its economic life as determined by the Secretary.

"SEC. 1403. CREATION AND MAINTENANCE OF CAPITAL RESERVE FUND.—(a) Each contractor shall create and maintain for the duration of the contract, in depositories approved by the Secretary, a capital reserve fund under the joint control of the operator and the Secretary.

"(b) Each contractor shall deposit in the capital reserve fund as is required to be deposited by subsidized operators under section 607, Merchant Marine Act, 1936, as amended, the proceeds of sales of vessels, the proceeds of insurance and indemnities, the depreciation charges as earned, and the earnings made on deposits in the capital reserve fund, and shall annually deposit any percentage of differential payments received on the movement of cargo under section 901 (b), Merchant Marine Act, 1936, as amended, that the Secretary determines is from profits and is necessary to fulfill the contractor's obligation under the contract.

"(c) The contractor may deposit in the fund other earnings from his vessel operations.

"SEC. 1404. TAX DEFERMENT OF DEPOSITS IN THE FUND.—(a) Deposits of capital gains into the fund are taxed in the same manner as deposits of capital gains by subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"(b) Deposits of earnings and differential payments into the fund are taxed in the same manner as deposits of earnings of subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"SEC. 1405. WITHDRAWALS FROM THE FUND.—Contractors may withdraw deposits from the fund with the same restriction and limitation, under the same conditions and with the same tax consequences as deposits may be withdrawn from the capital reserve fund by subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"SEC. 1406. INVESTMENT OF THE FUND.—Contractors may invest deposits in the fund under the conditions and with the same restriction as deposits of subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"SEC. 1407. DISCONTINUANCE OF DIFFERENTIAL PAYMENTS.—No operator of a nonsubsidized vessel may receive any differential payments for cargo moved by such vessel under section 901 (b), Merchant Marine Act, 1936, as amended, unless the operator has concluded a contract with the Secretary under this Act before January 1, 1968.

"SEC. 1408. DEFINITIONS.—In this Act—

"(a) 'Contract' means a vessel construction, acquisition, or reconstruction contract authorized by this Act.

"(b) 'Differential payments' means the payments made by the United States Government to operators of United States-flag merchant vessels for the movement of cargo under section 901 (b), Merchant Marine Act, 1936, as amended, at rates in excess of world market rates.

"(c) 'Documented' includes enrolled.

"(d) 'Earnings from the operation of vessels' includes hire from bareboat charters.

"(e) 'Earnings made on deposits' means earnings on funds deposited as well as earnings on accumulated earnings and gains made on sale of securities.

"(f) 'Fund' means the capital reserve fund authorized by this Act.

"(g) 'Nonsubsidized vessel' means any vessel not included in an operating differential subsidy contract under the Merchant Marine Act, 1936, as amended.

"(h) 'Person' includes corporation.

"(i) 'Reconstruction' means the substantial reconstruction and major modernization of a vessel if the Secretary determines that the objectives of this Act will be promoted by such reconstruction.

"(j) 'Secretary' means the Secretary of Commerce in reference to powers and duties relating to contracts for the construction, acquisition, or substantial reconstruction of merchant vessels and means the Secretary of the Interior in reference to powers and duties relating to contracts for the construction of fishing vessels.

"(k) 'Subsidized operators' means persons who have an operating differential subsidy contract under the Merchant Marine Act, 1936, as amended.

"(l) 'Vessel' includes non-self-propelled vessels, cargo containers, cargo vans, and other related equipment.

"(m) 'War-built vessel' means a vessel as defined in section 3, Merchant Ship Sales Act, 1946."

90TH CONGRESS
1ST SESSION

H. R. 13940

A BILL

To amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program.

By Mr. GARMATZ, Mrs. SULLIVAN, Mr. CLARK, Mr. ASHLEY, Mr. DINGELL, Mr. DOWNING, Mr. BYRNE of Pennsylvania, Mr. ROGERS of Florida, Mr. STUBBLEFIELD, Mr. MURPHY of New York, Mr. DOW, Mr. KARTH, Mr. HATHAWAY, Mr. JONES of North Carolina, Mr. HELSTOSKI, Mr. FALLON, and Mr. FRIEDEL

NOVEMBER 9, 1967

Referred to the Committee on Merchant Marine and Fisheries

[COMMITTEE PRINT]

JUNE 25, 1968

Union Calendar No.

90TH CONGRESS
2D SESSION

H. R. 13940

[Report No.]

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1967

Mr. GARMATZ (for himself, Mrs. SULLIVAN, Mr. CLARK, Mr. ASHLEY, Mr. DINGELL, Mr. DOWNING, Mr. BYRNE of Pennsylvania, Mr. ROGERS of Florida, Mr. STUBBLEFIELD, Mr. MURPHY of New York, Mr. DOW, Mr. KARTH, Mr. HATHAWAY, Mr. JONES of North Carolina, Mr. HELSTOSKI, Mr. FALLON, and Mr. FRIEDEL) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

JUNE , 1968

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That section 209(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1119(b)), is amended by inserting before the period at the end thereof a colon and the following: "*Provided, however,* That for each of the fiscal years 1969 through 1973,~~

J. 95-234——1

~~there is authorized to be appropriated (1) for construction-differential subsidy and the cost of national defense features incident to construction, reconstruction, or reconditioning of ships for operation in foreign or noncontiguous domestic commerce, and for the acquisition of used ships pursuant to section 510 of this Act, $300,000,000, to remain available until expended; and (2) for research and development, $25,000,000, to remain available until expended. For fiscal year 1969, there is also authorized to be appropriated for reconstruction of the reserve fleet, $30,000,000, to remain available until expended."~~

~~SEC. 2. Section 211 of the Merchant Marine Act, 1936 (46 U.S.C. 1121), is amended as follows:~~

~~(1) Subsection (b) is amended by inserting at the end thereof, immediately before the semicolon, a comma and the words "or which should be employed as contract carriers".~~

~~(2) Subsection (d) is amended by inserting after the words "services, routes, and lines" a comma and the words "or as contract carriers" and a comma, and by inserting after the words "service, route, or line" a comma and the words "or contract carrier".~~

~~SEC. 3. Section 501 of the Merchant Marine Act, 1936 (46 U.S.C. 1151), is amended as follows:~~

~~(1) By striking the first sentence of subsection (a) and inserting in lieu thereof the following: "Any privately~~

~~owned shipyard or proposed shipowner who is a citizen of the United States may make application to the Secretary of Commerce for a construction-differential subsidy to aid in the construction of a new vessel to be documented under the laws of the United States and to be used in the foreign commerce of the United States."~~

~~(2) By striking out of the second sentence of subsection (a) the words "the applicant" and inserting in lieu thereof the words "the proposed owner of the vessel is a citizen of the United States and".~~

~~SEC. 4. Section 502 (a) of the Merchant Marine Act, 1936 (46 U.S.C. 1152 (a)), is amended by striking the word "applicant" wherever it appears and inserting in lieu thereof the words "proposed shipowner".~~

~~SEC. 5. Section 502 (b) of the Merchant Marine Act, 1936 (46 U.S.C. 1152 (b)), is amended as follows:~~

~~(1) By striking the first sentence and inserting in lieu thereof the following: "The amount of the reduction in selling price which is herein termed 'construction-differential subsidy' shall be computed by taking the excess of the fair and reasonable estimate, as determined by the Secretary, of the cost of constructing a type of vessel in United States shipyards (excluding the cost of any features incorporated in the vessel for national defense uses, which shall be paid by the Secretary in addition to the subsidy), over the fair and~~

~~reasonable estimate of cost, as determined by the Secretary, of the construction of that type vessel (excluding national defense features as above provided) in a foreign shipbuilding center which is deemed by the Secretary to furnish a fair and representative example of the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed, and expressing the result as a percentage of the fair and reasonable estimate, as determined by the Secretary, of the cost of construction of that type vessel in United States shipyards, and applying such percentage to the lowest responsible bid. Subsidy rates shall be computed separately for different types of vessels and shall be periodically recomputed but not more frequently than once each year. In making his foreign cost estimate, the Secretary shall review and consider any foreign cost estimates and substantiating information submitted by operators, shipyards, or his staff."~~

~~(2) By striking the date "June 30, 1968" and inserting in lieu thereof the words "the expiration of three years from the date of enactment of this amendment".~~

~~SEC. 6. Section 504 of the Merchant Marine Act, 1936 (46 U.S.C. 1154), is amended as follows:~~

~~(1) By inserting the designation "(a)" after the section number.~~

~~(2) By striking the word "applicant" wherever it ap-~~

~~pears in the first sentence and inserting in lieu thereof the words "proposed shipowner".~~

~~(3) By striking in the second sentence thereof the word "bid" wherever it appears and inserting in lieu thereof the words "bid or negotiated price".~~

~~(4) By inserting at the end of the third sentence thereof before the period a comma and the words "or the negotiated price".~~

~~(5) By inserting after the first sentence thereof the following new sentence: "Alternatively, the Secretary may, in accordance with terms and conditions to be prescribed by him, permit the proposed shipowner to submit a negotiated price together with backup cost details and evidence that the price is fair and reasonable."~~

~~(6) By inserting a new subsection (b) to read as follows:~~

~~"(b) Where a shipyard is the applicant, it may, in accordance with terms and conditions prescribed by the Secretary, request construction-differential subsidy based upon a price which has been negotiated with the proposed shipowner. If the Secretary considers the negotiated price to be fair and reasonable, he may become a party to a contract between the shipyard and the shipowner and agree to pay the cost of national defense features and construction-differential subsidy computed under section 502(b) of this Act.~~

~~If the Secretary determines that the negotiated price is not fair and reasonable, he may request renegotiation in an effort to arrive at a fair and reasonable price. As an alternative to accepting a negotiated price, the Secretary may, with the consent of the shipyard applicant, request competitive bids on the proposal, in which case the applicant shipyard may be a bidder. In this event, the Secretary may become a party to a contract between the lowest competitive bidder and the proposed shipowner."~~

~~SEC. 7. Subsection (1) of section 510(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(a)), is amended to read as follows:~~

~~"(1) The term 'obsolete vessel' means a vessel or vessels each of which is of not less than one thousand three hundred and fifty gross tons; which has been owned by a citizen or citizens of the United States for at least three years immediately prior to the date of acquisition hereunder; and which in the judgment of the Secretary should be replaced in the public interest."~~

~~SEC. 8. Section 801 of the Merchant Marine Act, 1936 (46 U.S.C. 1211), is amended by striking "titles VI or VII" and inserting in lieu thereof "titles VI, VII, or XIII".~~

~~SEC. 9. Section 804 of the Merchant Marine Act, 1936 (46 U.S.C. 1222), is amended by striking the words "operating-differential subsidy under title VI" and inserting in lieu~~

~~thereof the words "operating subsidy under titles VI or XIII".~~

~~SEC. 10. Section 805 of the Merchant Marine Act, 1936 (46 U.S.C. 1223), is amended as follows:~~

~~(1) Subsection (a) is amended by inserting after the words "title VI" the words "or title XIII".~~

~~(2) Subsection (c) is repealed.~~

~~(3) Subsection (d) is amended by inserting "under titles VI or XIII of this Act" following the word "contractor" in the last sentence.~~

~~SEC. 11. Contractors with the United States are released from the provisions of their contracts which were inserted pursuant to the provisions of section 805(c) of the Merchant Marine Act, 1936 (46 U.S.C. 1223(c)).~~

~~SEC. 12. Section 810 of the Merchant Marine Act, 1936 (46 U.S.C. 1227), is amended by striking the words "operating-differential" and inserting in lieu thereof the word "operating", and by striking the words "title VI" and inserting in lieu thereof the words "titles VI or XIII".~~

~~SEC. 13. Section 905 of the Merchant Marine Act, 1936 (46 U.S.C. 1244(c)), is amended as follows: By striking in subsection (c) the words "under title VI" and inserting in lieu thereof the words "under titles VI or XIII".~~

~~SEC. 14. The Merchant Marine Act, 1936, is amended by inserting a new title X to read as follows:~~

~~"TITLE X—AID IN DEVELOPING, CONSTRUCTING, AND OPERATING PRIVATELY OWNED NUCLEAR-POWERED MERCHANT SHIPS~~

~~"SEC. 1001. The purpose of this title is to further implement the policy declared in section 101 of this Act, by fostering at the least cost to the United States the development, construction, and operation of privately owned nuclear-powered merchant ships whose designs embody significant departures from the designs of existing nuclear-powered merchant ships which may lead to reduction of the cost of constructing and operating future nuclear-powered merchant ships.~~

~~"SEC. 1002. The Secretary of Commerce is authorized to invite from citizens of the United States proposals for the development and construction of nuclear-powered merchant ships for operation in the domestic or foreign commerce of the United States, including trade on the Great Lakes. Proposals shall be invited only for the development and construction of nuclear-powered merchant ships (1) of types and general specifications (whether dry cargo, liquid bulk carrier, or other) determined by the Secretary of Commerce, and (2) with nuclear propulsion systems of general types and conceptual designs which the Atomic Energy Commission has determined could reasonably be expected to accomplish nuclear power base development program ob-~~

~~jectives more quickly, more effectively, or at lower cost than other nuclear propulsion systems (these would include, without limitation, objectives of dependability, reliability, operability, and the acquisition of data that would be of value to the future development of merchant marine nuclear propulsion systems). Each proposal shall include a detailed description of the proposed ship or ships; their contemplated use in commerce; the proposed development, construction, and operating programs; the technical justification and detailed estimate of development, construction, and operating costs; the amount of aid applied for itemized separately for the development, construction, and operating programs; and such other information as the Secretary directs.~~

~~"SEC. 1003. The Secretary, in cooperation with the Atomic Energy Commission, shall evaluate all proposals determined to be responsive to the invitation and shall select from them the proposal or proposals which will most closely carry out the purposes of this title. If the Secretary determines that the person who submitted a selected proposal, although such person may have had no experience in the operation of nuclear-powered ships, possesses the ability, experience, financial resources, and other qualifications necessary to enable him to operate and maintain ships in that area of the domestic or foreign commerce of the United~~

~~States (including trade on the Great Lakes) in which he proposes to operate the proposed ship or ships, the Secretary may negotiate the award of a contract with such person (hereafter called the applicant) for the development and construction of the proposed ship or ships. The Secretary may require such modifications in the proposed ship or ships as he deems desirable, taking into account the views of the Atomic Energy Commission with respect to modifications of the nuclear propulsion system, and the views of the Secretary of Defense with respect to national defense features. The Secretary may agree to provide so much of the aid authorized by section 1004 of this title as he determines is necessary to carry out the purposes of this title, taking into consideration the financial risk to the applicant, and the contribution which the development, construction, and operation of the proposed ship or ships may make toward carrying out the purposes of this title.~~

~~"SEC. 1004. (a) (1) In connection with the development and construction of vessels proposed and selected pursuant to section 1003, the Secretary may offer the following assistance:~~

~~"(A) With the scientific and engineering advice of the Atomic Energy Commission, he may assist in negotiating the award of and become a party to contracts between the applicant and the developer for the~~

~~development of the proposed nuclear-powered merchant ship or ships, including the first fuel cores. He may agree in such contracts to pay the developer all of, or part of, the excess of the cost of developing the proposed ship or ships, including national defense features and the first fuel cores, over the estimated fair and reasonable cost of developing a comparable conventional ship or ships without national defense features.~~

~~"(B) He may become a party to contracts between the applicant and the builder for the construction of the proposed nuclear-powered merchant ship or ships, and may agree in such contracts to pay the builder all of, or part of, the excess of the cost of constructing in the United States the proposed ship or ships, including national defense features and the first fuel cores, over the estimated average weighted fair and reasonable foreign cost of constructing a comparable conventional ship or ships without national defense features: *Provided, however*, That if the ship or ships are to be operated in the domestic trade (except the noncontiguous domestic trade) aid under this paragraph is limited to the excess of the cost of constructing in the United States the proposed ship or ships, including national defense features and the first fuel cores, over the estimated fair and reasonable cost of constructing a comparable conven-~~

~~tional ship without national defense features in the United States.~~

~~"(2) The Secretary may also assist in training crews for the ships; plan and design or assist in planning and designing appropriate shore facilities to service the ships; make available to the applicant, with the consent of the Atomic Energy Commission, appropriate classified information; provide research and development in Government laboratories which have facilities, personnel, or equipment not available in private laboratories, with the consent of the department or agency which operates the laboratory, and with or without charge to the applicant; and provide, without charge, design review services, ship construction inspection services, and ship operation advisory services.~~

~~"(3) If, under section 184 of the Atomic Energy Act of 1954 (42 U.S.C. 2234), the Atomic Energy Commission consents to the creation of a mortgage or lien on the nuclear-powered merchant ship, and if the loan and mortgage are eligible for insurance under title XI of this Act, the Secretary may insure under that title the interest on and the unpaid balance of the principal amount of the loan and mortgage. In determining the applicant's eligibility, the Secretary is not required to make the finding required by subsection (c) of section 1004 of this Act. The Secretary may make the findings required by subsection (a) (1) and~~

~~(b)(1) of section 1104 even though the applicant has had no experience in the operation of nuclear-powered merchant ships. The applicability of section 184 of the Atomic Energy Act of 1954 to the ship shall not prevent a mortgage on the ship from being a preferred mortgage under the Ship Mortgage Act, 1920.~~

~~"(b) In providing the aid specified in subsection (a) of this section, the Secretary may, upon payment of the costs, and with the consent of the department or agency concerned, avail himself of the use of licenses, information, services, facilities, offices, and employees of any executive department, independent establishment, or other agency of the Government, including any field service thereof.~~

~~"(c) Section 505 (a) of this Act shall apply to all ships whose construction is aided under this title.~~

~~"SEC. 1005. Each applicant for aid under this title shall agree that if the ship, after its construction is completed, cannot at any time be operated for a period of more than thirty days because of an interunion dispute in which the fact that the ship is nuclear powered is an important element, the owner will, if so directed by the Secretary of Commerce, place the vessel up for sale at competitive bidding, with a minimum price in the amount that would be paid if the vessel were requisitioned for title, and on such other terms and con-~~

~~ditions as the Secretary of Commerce determines will be conducive to the continued operation of the ship. This obligation shall run with the title to the vessel.~~

~~"Sec. 1006. Any ship developed and constructed with aid under this title shall be documented under the laws of the United States and shall remain so documented for twenty-five years or so long as it is propelled by nuclear propulsion, whichever is longer.~~

~~"Sec. 1007. Ships whose construction is aided under this title are eligible to receive operating-differential subsidy under whatever system is in force when the ships go into operation if the applicant qualifies under the statute.~~

~~"Sec. 1008. Authority to contract for the development or construction of ships under this title expires at midnight on the last day of the sixtieth month following the month in which this title is enacted."~~

~~Sec. 15. Section 152 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2182), is amended as follows:~~

~~(1) By inserting in the first sentence thereof immediately after the words "with or for the benefit of the Commission" a comma and the following: "or with the Secretary of Commerce under the authority of title X of the Merchant Marine Act, 1936, as amended".~~

~~(2) By striking the words "by the Commission" in~~

~~the first sentence and inserting the words "by the Commission or the Secretary".~~

~~SEC. 16. Subsection (1) of section 170 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2210(1)), is amended by inserting in the first sentence thereof immediately before the period a comma and the following: "or any ship whose development or construction is aided under title X of the Merchant Marine Act, 1936, as amended".~~

~~SEC. 17. The second sentence of the second paragraph of section 607(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(b)), is amended by inserting after the words "authorized under section 613 of this title" a comma and the words "or new nuclear fuel cores for vessels" and a comma.~~

~~SEC. 18. Section 1104(a)(5) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(5)), is amended to read as follows:~~

~~"(5) shall secure bonds, notes, or other obligations bearing interest (exclusive of premium charges for insurance, and service charges, if any) at rates not to exceed such per centum per annum of the principal obligation outstanding as the Secretary of Commerce determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Department of Commerce;"~~

~~SEC. 19. Section 1106(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1272(2)), is amended by inserting after the words "for reconditioning or reconstructing the mortgaged property" the words "or to provide a new nuclear fuel core for the mortgaged property".~~

~~SEC. 20. The Merchant Marine Act, 1936, is amended by inserting a new title XIII to read as follows:~~

~~"TITLE XIII—EXPERIMENTAL OPERATING SUBSIDY~~

~~"SEC. 1301. The Secretary of Commerce is authorized to enter into five-year experimental contracts with liner operators for the payment of operating subsidy for the operation of liner vessels in the foreign commerce of the United States and with owners of dry bulk vessels built after the enactment of this title for operation as contract carriers in the foreign commerce of the United States, subject to such terms and conditions as the Secretary may determine.~~

~~"SEC. 1302. A subsidy contract may be awarded on any service which the Secretary, in his discretion, without public hearing, determines is not adequately served. Applicants for such contracts must meet the eligibility requirements of section 601 of this Act. The Secretary, in his discretion, may apply the provisions of sections 605 (a) and (b), 606 (5), (6), and (7), 607 (a), (b), (c), (d), (e), (f), and (g), 608, 609, 610, and 611 of this Act, or any of~~

~~them, to contracts entered into under this title. He may also, in his discretion, apply the provisions of section 607 (h) to contracts entered into under this title with liner operators.~~

~~"SEC. 1303. The amount payable during the first year of the subsidy contract shall not exceed the difference between the costs incurred in operating the ship for insurance, wages, maintenance and repair, and the cost of such items incurred in the operation of a comparable ship under the flag of a foreign country whose ships are substantial competitors of the subsidized ship. During the subsequent years of the contract, the amount of subsidy shall be computed in such manner as the Secretary in his discretion may determine. In developing any new system the Secretary shall be guided by the overriding principle that the system must contain incentives which can be reasonably expected to reduce unit costs of subsidy in the future. Such incentives may include the use of an objective index or indices to govern the annual change in costs eligible for subsidy, the use of a formula or formulae reasonably relating the amount of subsidy payable to the performance or production of subsidized service, or the use of such other reasonable approaches to the determination of the amount of subsidy as the Secretary may in his discretion establish.~~

~~"SEC. 1304. Such contracts shall provide that upon their~~

~~termination the operator shall have the option of receiving a contract for the operation of his vessels under whatever subsidy system is in force at that time, or of selling his ships to the Government for a price not to exceed their depreciated book value."~~

~~SEC. 21. (1) There is hereby established a Commission to be known as the Commission on American Shipbuilding (hereinafter referred to as the "Commission"). The Commission shall be composed of six members, appointed by the President. At least one member shall be from the United States shipbuilding industry. Members of the Commission shall be appointed for the life of the Commission. The President shall designate one of the members of the Commission as Chairman. Four members of the Commission shall constitute a quorum.~~

~~(2) Members of the Commission shall each be entitled to receive $100 per diem when engaged in the actual performance of duties vested in the Commission, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.~~

~~(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.~~

~~(4) The Commission shall have the power to appoint and fix the compensation of such personnel, as it deems advisable, subject to the civil service laws and the Classification Act of 1949, as amended.~~

~~(5) The Commission may procure, in accordance with the provisions of title 5 of the United States Code, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $100 per diem, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.~~

~~(6) The Commission shall conduct a study of the extent to which Federal assistance to the private shipbuilding industry in the United States is necessary to preserve the competitive position of such industry and to preserve a national capability for the building and repair of United States merchant and United States naval ships.~~

~~(7) The Commission shall not later than three years after the date of enactment of this Act submit a comprehensive report of its findings and recommendations to the President and to the Congress, and thereafter shall cease to exist.~~

~~SEC. 22. The Merchant Marine Act, 1936, is amended by inserting a new title XIV to read as follows:~~

~~"TITLE XIV—REPLACEMENT AND EXPANSION OF UNITED STATES NONSUBSIDIZED MERCHANT AND FISHING FLEETS~~

~~"SEC. 1401. AUTHORITY TO NEGOTIATE CONTRACTS.—(a) For the purpose of promoting the construction or acquisition of new merchant vessels or the substantial reconstruction of existing merchant vessels and for other purposes authorized by this Act, the Secretary of Commerce may enter into contracts not to exceed twenty years with any person who is a citizen of the United States if the Secretary determines the person possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the merchant vessels as to meet competitive conditions and promote United States domestic or foreign commerce.~~

~~"(b) For the purpose of promoting the construction of new fishing vessels, the Secretary of the Interior may enter into contracts not to exceed twenty years with any person who is a citizen of the United States if the Secretary determines the person possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the fishing vessel to~~

~~meet competitive conditions and promote the utilization of fishery resources.~~

~~"SEC. 1402. TERMS AND CONDITIONS OF CONTRACT.—The Secretary shall include in each contract a provision—~~

~~"(a) that any new vessel constructed under a contract will be built in a shipyard in the United States under a contract with a shipbuilder entered into after the effective date of this Act;~~

~~"(b) that any new vessel acquired under a contract will be one that was built in a shipyard in the United States for the United States Government under a contract with a shipbuilder entered into after the effective date of this Act;~~

~~"(c) that any vessel substantially reconstructed under a contract will be one that was built in a shipyard in the United States and will be substantially reconstructed in a shipyard in the United States under a contract with a shipbuilder entered into after the effective date of this Act;~~

~~"(d) that any vessel constructed, acquired, or substantially reconstructed under a contract will be of a type, size, and speed that the Secretary determines to be suitable for use on the high seas or Great Lakes;~~

~~"(e) that any vessel constructed, acquired, or sub-~~

~~stantially reconstructed under a contract negotiated under section 1 (a) will be of a type which the Secretary of the Navy certifies is suitable for economical and speedy conversion into a naval auxiliary or otherwise suitable for use by the United States in the event of war or national emergency;~~

“~~(f) for the creation and maintenance of a capital reserve fund;~~

“~~(g) for the approximate number and type of vessels which the contractor will construct, acquire, or substantially reconstruct subject to modifications and extensions upon a showing to the satisfaction of the Secretary of acceptable reasons for modifications or extensions;~~

“~~(h) for additional terms and conditions consistent with this Act, that the Secretary determines to be necessary to protect the interest of the United States;~~

“~~(i) for the early replacement of any war-built vessel used in the movement of cargo under section 901 (b), Merchant Marine Act, 1936, as amended;~~

“~~(j) that each contractor agrees not to incur~~ any ~~purchase money indebtedness with respect to any vessel constructed, acquired, or substantially reconstructed under a contract without the prior consent of the Secretary;~~

“~~(k) that upon failure of the contractor to con-~~

~~struct, acquire, or substantially reconstruct any vessel as provided in the contract as modified or extended, all deposits of the contractor will be withdrawn from the fund with the same tax consequences as result from withdrawals from the funds created by section 607, Merchant Marine Act, 1936, as amended, and no further deposits may be made by the contractor until a new contract is negotiated; and~~

~~"(l) that the contractor agrees that any vessel constructed or acquired under a contract will remain documented under the laws of the United States for twenty-five years from the date of its delivery by the shipbuilder and any vessel reconstructed under a contract will remain documented under the laws of the United States for the remainder of its economic life as determined by the Secretary.~~

~~"SEC. 1403. CREATION AND MAINTENANCE OF CAPITAL RESERVE FUND.—(a) Each contractor shall create and maintain for the duration of the contract, in depositories approved by the Secretary, a capital reserve fund under the joint control of the operator and the Secretary.~~

~~"(b) Each contractor shall deposit in the capital reserve fund as is required to be deposited by subsidized operators under section 607, Merchant Marine Act, 1936, as amended, the proceeds of sales of vessels, the proceeds of insurance~~

~~and indemnities, the depreciation charges as earned, and the earnings made on deposits in the capital reserve fund, and shall annually deposit any percentage of differential payments received on the movement of cargo under section 901(b), Merchant Marine Act, 1936, as amended, that the Secretary determines is from profits and is necessary to fulfill the contractor's obligation under the contract.~~

~~"(c) The contractor may deposit in the fund other earnings from his vessel operations.~~

~~"Sec. 1404. Tax Deferment of Deposits in the Fund.—(a) Deposits of capital gains into the fund are taxed in the same manner as deposits of capital gains by subsidized operators under section 607, Merchant Marine Act, 1936, as amended.~~

~~"(b) Deposits of earnings and differential payments into the fund are taxed in the same manner as deposits of earnings of subsidized operators under section 607, Merchant Marine Act, 1936, as amended.~~

~~"Sec. 1405. Withdrawals From the Fund.—Contractors may withdraw deposits from the fund with the same restriction and limitation, under the same conditions and with the same tax consequences as deposits may be withdrawn from the capital reserve fund by subsidized operators under section 607, Merchant Marine Act, 1936, as amended.~~

~~"Sec. 1406. Investment of the Fund.—Contractors~~

~~may invest deposits in the fund under the conditions and with the same restriction as deposits of subsidized operators under section 607, Merchant Marine Act, 1936, as amended.~~

~~"Sec. 1407. Discontinuance of Differential Payments.—No operator of a nonsubsidized vessel may receive any differential payment for cargo moved by such vessel under section 901(b), Merchant Marine Act, 1936, as amended, unless the operator has concluded a contract with the Secretary under this Act before January 1, 1968.~~

~~"Sec. 1408. Definitions.—In this Act—~~

~~"(a) 'Contract' means a vessel construction, acquisition, or reconstruction contract authorized by this Act.~~

~~"(b) 'Differential payments' means the payments made by the United States Government to operators of United States-flag merchant vessels for the movement of cargo under section 901(b), Merchant Marine Act, 1936, as amended, at rates in excess of world market rates.~~

~~"(c) 'Documented' includes enrolled.~~

~~"(d) 'Earnings from the operation of vessels' includes hire from bareboat charters.~~

~~"(e) 'Earnings made on deposits' means earnings on funds deposited as well as earnings on accumulated earnings and gains made on sale of securities.~~

~~"(f) 'Fund' means the capital reserve fund authorized by this Act.~~

~~"(g) 'Nonsubsidized vessel' means any vessel not included in an operating differential subsidy contract under the Merchant Marine Act, 1936, as amended.~~

~~"(h) 'Person' includes corporation.~~

~~"(i) 'Reconstruction' means the substantial reconstruction and major modernization of a vessel if the Secretary determines that the objectives of this Act will be promoted by such reconstruction.~~

~~"(j) 'Secretary' means the Secretary of Commerce in reference to powers and duties relating to contracts for the construction, acquisition, or substantial reconstruction of merchant vessels and means the Secretary of the Interior in reference to powers and duties relating to contracts for the construction of fishing vessels.~~

~~"(k) 'Subsidized operators' means persons who have an operating differential subsidy contract under the Merchant Marine Act, 1936, as amended.~~

~~"(l) 'Vessel' includes non-self-propelled vessels, cargo containers, cargo vans, and other related equipment.~~

~~"(m) 'War-built vessel' means a vessel as defined in section 3, Merchant Ship Sales Act, 1946."~~

That (a) subsection (a) of section 501 of the Merchant Marine Act, 1936 (46 U.S.C. 1151), is amended by striking out "construction of a new vessel" in the first sentence and inserting in lieu thereof "construction, reconstruction, or re-

conditioning of a vessel", by striking out "plans and specifications call" in clause (1) of the second sentence and inserting in lieu thereof "preliminary design calls", and by inserting immediately before the last sentence the following new sentence: "In the case of an application for a construction differential subsidy to aid in reconstructing or reconditioning a vessel, such aid shall be extended only in exceptional cases and after a thorough study and a formal determination by the Secretary that the proposed reconstruction or reconditioning is consistent with the purposes and policies of this Act."

(b) Subsection (b) of such section is amended by striking out "Commission" in the first sentence and inserting in lieu thereof "applicant".

(c) Subsection (c) of such section is amended to read as follows:

"(c) The function of the Secretary in connection with the preliminary design of any vessel for which application for construction differential subsidy is made shall be limited to the determination that the vessel is generally suitable to meet the objectives stated in subsection (a)(1), and to the approval of the general characteristics of the vessel."

SEC. 2. (a) Subsection (b) of section 502 of the Merchant Marine Act, 1936 (46 U.S.C. 1152(b)) is amended by inserting "(1)" after "(b)", and by amending the first sentence to read as follows: "The amount of the reduction in *selling price which is herein termed 'construction-differential subsidy' shall be computed by taking the excess of the fair and reasonable estimate, as determined by the Secretary, of the cost of constructing a type of vessel in United States shipyards (excluding the cost of any features incorporated in the vessel for national defense uses, which shall be paid by the Secretary in addition to the subsidy), over the fair and reasonable estimate of the cost, as determined by the Secretary, of the construction of that type vessel (excluding national defense features as above provided) in a foreign shipbuilding center which is deemed by the Secretary to furnish a fair and representative example of the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed, and expressing the result as a percentage of the fair and reasonable estimate, as determined by the Secretary, of the cost of construction of that type vessel in United States shipyards, and applying such percentage to the lowest responsible bid. Subsidy rates shall be computed separately for different types of vessels and shall be periodically recomputed but not more frequently than once each year."*

(b) Subsection (b) of such section is further amended by adding at the end thereof the following new paragraph:

"(2) All determinations of subsidy rates under paragraph (1) shall be made on the record after opportunity for

hearing in accordance with the rulemaking procedures provided in chapter 5 of title 5, United States Code. The Secretary shall publish notice in the Federal Register of his intention to determine such rates and shipbuilders and shipowners, and associations thereof, may become parties to the proceedings. Any subsidy rate determined by the Secretary under this paragraph shall be published in the Federal Register and shall include, or be accompanied by, findings of fact."

SEC. 3. Section 504 of the Merchant Marine Act, 1936 (46 U.S.C. 1154) is amended to read as follows:

"SEC. 504. (a) After the approval of the plans and specifications of a vessel under section 501(b) and the approval of the application for subsidy by the Secretary, the applicant may elect to contract directly with a shipyard for the construction, reconstruction, or reconditioning of the vessel concerned. The applicant may enter into a contract (hereafter referred to in this section as the 'construction contract') for such vessel with a shipyard after obtaining competitive bids; except that regardless of which bid the contractor accepts, the Secretary shall pay construction-differential subsidy under section 502(b) on the basis of the lowest responsible bid which the contractor receives. The construction contract shall be executed by the shipyard and the applicant. The Secretary shall obligate the United States by a separate contract with the shipyard to pay directly to the shipyard the cost of the national

defense features and the construction-differential subsidy for the vessel."

"(b) The Secretary may not enter into any contract under subsection (a) which obligates the United States to pay construction-differential subsidy unless such contract contains such provisions as are provided in this title to protect the interests of the United States. A vessel constructed, reconstructed, or reconditioned under this section shall be documented under the laws of the United States as provided in section 503. No contract or other arrangement made pursuant to this section shall restrict the lawful or proper use or operation of the vessel, except to the extent expressly required by law."

SEC. 4. Paragraph 1 of section 510(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(a)) is amended to read as follows:

"(1) The term 'obsolete vessel' means a vessel or vessels each of which (A) is of not less than one thousand three hundred and fifty gross tons; (B) has been owned by a citizen or citizens of the United States for at least three years immediately prior to the date of acquisition hereunder; and (C) should, in the judgment of the Secretary, be replaced in the public interest; except that until June 30, 1974, the term 'obsolete vessel' means a vessel or vessels each of which meets the requirements in clauses (A), (B), and (C) and

is at least twelve years old immediately prior to the date of acquisition hereunder."

SEC. 5. (a) Subsection (a) of section 511 of the Merchant Marine Act, 1936 (46 U.S.C. 1161) is amended to read as follows:

"(a) When used in this section, the term 'new vessel' means—

"(1) any vessel other than a fishing vessel which is (A) documented or agreed with the Secretary to be documented under the laws of the United States; (B) constructed in the United States after December 31, 1939, or the construction of which has been financed under title V or VII of this Act, as amended, or the construction of which has been aided by a mortgage insured under title XI of this Act as amended; and (C) either is (i) of such type, size, and speed as the Secretary shall determine to be suitable for use on the high seas or Great Lakes in carrying out the purposes of this Act, but not of less than two thousand gross tons or of less speed than twelve knots, unless the Secretary shall determine and certify in each case that a vessel of a specified lesser tonnage or speed is desirable for use by the United States in case of war or national emergency, or (ii) constructed to replace a vessel or vessels requisitioned or purchased by the United States; and

"(2) any vessel which is a 'fishing vessel' within the meaning of such term as defined in the United States Fishing Fleet Improvement Act and the regulations promulgated thereunder."

(b) Subsection (b) of such section is amended by striking out "receipts," and inserting in lieu thereof "receipts (hereafter referred to in this section as 'receipts'),".

(c) Subsection (d) of such section is amended by inserting immediately after "which represents" the following: "earnings, receipts, or".

(d) Subsection (e)(1) of such section is amended to read as follows: "(1) if earnings, receipts, the net proceeds of a sale, or the net indemnity in respect of a loss are deposited in more than one deposit, the amount consisting of profits from operations of the vessel and services incidental thereto, other net receipts, or the gain shall be considered as first deposited;".

(e) Subsection (e)(3) of such section is amended to read as follows: "(3) if any deposit consists in part of earnings, receipts, or gain not recognized under subsection (c), any expenditure, obligation, or withdrawal applied against such deposit shall be considered to consist of earnings, receipts, or gain in the proportion that the part of the deposit consisting of earnings, receipts, or gain bears to the total amount of the deposit."

(f) Subsection (g) of such section is amended by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(3) with respect to deposits made from earnings from the operation of the new vessel after its delivery, for the orderly replacement of such vessel within such period and under such terms and conditions as the Secretary shall prescribe."

(g) Subsection (i) of such section is amended by striking out "Any such" in the first sentence and inserting in lieu thereof "Except for earnings and receipts, any other", and by adding at the end thereof the following new sentence: "Earnings and receipts shall be taxable as if earned during the year of withdrawal from such fund."

(h) Subsection (j) of such section is amended by striking out "deposited gain" in the proviso and inserting in lieu thereof "deposit".

(i) The amendments made by subsections (b) through (h) of this section shall apply only with respect to earnings and receipts deposited in construction reserve funds under section 511 of the Merchant Marine Act, 1936, during taxable years beginning after the date of the enactment of this Act.

SEC. 6. (a) The second paragraph of section 607(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(b)) is amended by striking out "or (3)" and inserting in lieu thereof "(3) for the purchase of barges or for the payment of the principal of any indebtedness incurred for such barges, or (4)"; and by inserting "or barges" after "containers" wherever it appears in the last sentence thereof.

(b) The second paragraph of such section is further amended by adding at the end thereof the following new sentence: "The term 'barges' as used herein includes only those barges designed and constructed for carriage aboard oceangoing vessels as an integrated ship cargo handling system."

SEC. 7. The Secretary of Commerce is authorized and directed to undertake a full and complete investigation and study of (1) the effectiveness of the operating-differential subsidy provisions of title VI of the Merchant Marine Act, 1936, in light of the current needs and objectives of the United States merchant marine, and (2) ways and means of revitalizing passenger traffic on United States-flag ships including investigations of passenger service promotion, development of the freight-passenger ship concept, modernized terminal facilities, changes in subsidy requirements necessary to encourage such passenger traffic, and any other matters relevant thereto. The Secretary may secure directly *from any department or agency of the United States such information and technical assistance as may be necessary to enable him to carry out this section. The Secretary shall report the results of such investigations and studies to Congress not later than one year after the date of the enactment of this Act and shall include in such report his recommendations for improvements which should be made in the operating-differential subsidy and passenger services programs.*

from any department or agency of the United States such information and technical assistance as may be necessary to enable him to carry out this section. The Secretary shall report the results of such investigations and studies to Congress not later than one year after the date of the enactment of this Act and shall include in such report his recommendations for improvements which should be made in the operating-differential subsidy and passenger services programs.

[COMMITTEE PRINT]

June 25, 1968

Union Calendar No.

90th CONGRESS
2d Session

H. R. 13940

[Report No.]

A BILL

To amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program.

By Mr. Garmatz, Mrs. Sullivan, Mr. Clark, Mr. Ashley, Mr. Dingell, Mr. Downing, Mr. Byrne of Pennsylvania, Mr. Rogers of Florida, Mr. Stubblefield, Mr. Murphy of New York, Mr. Dow, Mr. Karth, Mr. Hathaway, Mr. Jones of North Carolina, Mr. Helstoski, Mr. Fallon, and Mr. Friedel

November 9, 1967

Referred to the Committee on Merchant Marine and Fisheries

June , 1968

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

June 26, 1968

SUMMARY OF H. R. 13940
AS PROPOSED TO BE AMENDED

Purpose of the Bill

The purpose of this bill is to amend certain provisions of the Merchant Marine Act, 1936, as amended, with the view to modernizing such provisions and thereby providing incentives for upgrading the American Merchant Marine. The bill would also authorize and direct the Secretary of Commerce to make studies of (1) the effectiveness of the operating-differential subsidy provisions of the 1936 Act, and (2) ways and means of revitalizing passenger traffic on United States-flag ships.

H. R. 13940 as hereby revised is based upon the 17 days of comprehensive hearings held by your Committee during April and May, during which extensive testimony was received from and suggestions made by all segments of the maritime industry, both labor and management. A number of important provisions in the original bill and suggestions made by witnesses were considered. However, in view of the current fiscal strains affecting the operations of all Government programs and the national economy generally, it was felt that recommendations for legislation in the remainder of this session should be limited to those items which would have the least financial impact on the Government under current conditions and yet would result in constructive steps toward correcting existing deficiencies in the merchant marine. Accordingly, it was felt that while there are a number of areas in which action is desirable it would be best to defer their consideration at this time.

WHAT THE BILL DOES

SECTIONS 1, 2 AND 3: CONSTRUCTION-DIFFERENTIAL SUBSIDY.

Sections 1, 2 and 3 of the proposed bill amend certain provisions of Title V of the Merchant Marine Act, 1936 pertaining to the determination of the construction-differential subsidy system to aid in the construction, reconstruction and reconditioning of vessels in order to enable American operators to procure ships built in American shipyards at prices which would place them on a parity with their foreign competitors.

Among other things, existing law requires an applicant for a construction-differential subsidy to aid in the construction of a new vessel, or the reconstruction or reconditioning of a vessel, to be used in the foreign commerce of the United States to submit full plans and specifications to the Secretary of Commerce for review and approval. It also provides that the Secretary shall submit the plans and specifications for a proposed vessel to the Navy Department for examination and suggestions for such changes as may be deemed necessary or proper in order that such vessel shall be suitable for economical and speedy conversion into a naval or military auxiliary and otherwise suitable for the use of the United States Government in time of war or national emergency.

The proposed bill would amend existing law so as to limit the applicant's obligation to the submission to the Secretary for approval of a <u>preliminary design</u> calling for a new vessel which will meet the requirements of the foreign commerce of the

United States, will aid in the promotion and development of such commerce, and be suitable for use by the United States for national defense or military purposes in time of war or national emergency. Thus, as stated in subsection 501(c) as hereby amended, the function of the Secretary in connection with the preliminary design of any vessel for which application for construction-differential subsidy is made shall be limited to the determination that the vessel is generally suitable to meet the objectives above stated and to the approval of the general characteristics of the vessel.

The bill as hereby amended would nevertheless require that the applicant should submit his plans and specifications to the Navy Department for examination and suggestions.

It is believed that these changes will simplify present procedures, save time and money for both the vessel operator and the Government through reducing the Government's involvement in the details of the plans and specifications, and yet effectively accomplish the purposes of existing law with regard to both the commercial and naval or military utility of the vessel.

SECTION 2.

Existing law (section 502(b)) provides for the determination of the construction-differential subsidy by the Secretary on a single ship basis by comparing the cost of building the proposed vessel (excluding the cost of national defense features) over the fair and reasonable estimate of cost of building such vessel under similar plans and specifications in a representative foreign shipbuilding center.

The differential is stated in terms of a percentage of the American construction cost of the vessel. The proposed bill would amend existing law by providing for the determination of the construction-differential subsidy on the basis of types of vessels rather than individual vessels. It further provides that subsidy rates shall be computed separately for different types of vessels and shall be periodically re-computed but not more frequently than once each year. When the subsidy rates are thus established the percentage differential would be applied in the case of all contracts for vessels of each different type contracted for in the applicable time period.

Provision is also made in the new bill for requiring that all determinations of subsidy rates shall be made on the record after opportunity for hearing in accordance with the rule-making procedures provided in the Administrative Procedures Act, with published notice in the Federal Register and authorization for shipbuilders, shipowners and associations thereof to become parties to the procedure provisions submitted for publication in the Federal Register of any subsidy rate determined by the Secretary with accompanying findings of fact

SECTION 3.

Under existing law the construction-differential subsidy is handled by way of a three-way contract procedure between the Secretary of Commerce, the operator and the shipyard, with the Secretary being responsible for advertising for and receiving bids from shipyards for construction of a proposed vessel.

The proposed bill retains this provision of law but also provides an alternative procedure by which after the appropriate approval of the applicant by the Secretary, the applicant may elect to contract directly with the shipyard for the construction, reconstruction or reconditioning of a vessel after obtaining competitive bids. The construction-differential subsidy would be paid on the basis of the lowest responsible bid which the contractor receives. The ship construction contract would be between the shipyard and the applicant. By separate contract with the shipyard, the Secretary would obligate the United States to pay directly to the shipyard the national defense features and construction-differential subsidy.

SECTION 4: TRADE-IN OF OBSOLETE VESSELS.

Under existing law a merchant vessel which is, among other things, not less than 17 years old, may be traded in to the Government in exchange for an allowance of credit toward the construction of a new vessel, if in the judgment of the Secretary the old vessel is considered to be obsolete or inadequate for successful operation in the domestic or foreign trade of the United States. The proposed bill would amend the existing law so that a vessel may, without regard to its age, be traded in, if in the judgement of the Secretary it should be replaced in the public interest, except that until June 30, 1974 no vessel may be deemed obsolete and eligible for trade in unless it is at least 12 years old.

SECTION 5: TAX-DEFERRED CONSTRUCTION RESERVE FUNDS FOR NONSUBSIDIZED OPERATORS.

This section would amend section 511 of the 1936 Act so as to authorize the deposit of earnings from the operation by nonsubsidized operators of vessels documented under the laws of the United States and from services incident thereto, and receipts in the form of interest or otherwise with respect to amounts previously deposited.

Section 511 was enacted in 1939 for the purpose of promoting the construction, reconstruction, reconditioning or acquisition of vessels by American operators operating vessels in the foreign or domestic commerce of the United States, or in the fisheries. It is limited, however, at present to the equivalent of gains from sales of vessels and indemnities from loss of vessels. Earnings may be deposited in such funds but do not receive the benefit of tax deferment.

The amendments proposed in this section would create comparable authority to nonsubsidized operators to that presently available to subsidized operators under Title VI of the Merchant Marine Act, 1936.

There is wholehearted endorsement by all segments of the maritime industry, including the fisheries and operators of vessels on the Great Lakes, to the amendments proposed by this section. One leading operator of nonsubsidized vessels testified that if the concept embodied in this section becomes law, he will immediately enter into contracts with American shipyards for the construction of 20 new vessels, for a total of approximately $300 million.

All witnesses testifying on this concept recommended that the nonsubsidized operators have available to them the same privileges with regard to tax-deferred construction reserve funds as subsidized operators have. The tax-deferred status of moneys deposited in such reserve funds would be available only to the extent that they are used for the construction or acquisition of new vessels, or reconstruction or reconditioning of vessels.

The basic change in existing law is to grant tax-deferred status to earnings as well as the existing provisions relating to capital gains on sales of vessels and indemnities in connection with lost vessels.

SECTION 6. PURCHASE OF BARGES FROM RESERVE FUNDS BY SUBSIDIZED OPERATORS.

Existing law authorizes the payment from the Capital Reserve Fund of a subsidized operator, subject to consent and approval of the Secretary, amounts required for the purchase of cargo containers.

In view of the recent design development of the LASH and SEABEE vessel concepts involving the use of barges in a manner similar to the use of containers in containership vessels, this amendment would simply provide similar authority for the use of moneys from the Reserve Fund for the purchase of barges.

The new section limits the term "barges" to include only those barges designed and constructed for carriage aboard oceangoing vessels as an integrated ship cargo handling system.

SECTION 7: AUTHORIZATION OF STUDIES

This section would authorize and direct the Secretary of Commerce to undertake full and complete investigations and studies of (1) the effectiveness of the operating-differential subsidy provisions of Title VI of the Merchant Marine Act, 1936, in light of the current needs and objectives of the United States Merchant Marine, and (2) ways and means of revitalizing passenger traffic on United States-flag ships including investigations of passenger service promotion, development of the freight-passenger ship concept, modernized terminal facilities, changes in subsidy requirements necessary to encourage such passenger traffic, and any other matters relevant thereto.

# # #

90TH CONGRESS
1ST SESSION

H. R. 13941

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1967

Mr. LENNON introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 209 (b) of the Merchant Marine Act, 1936 (46 U.S.C. 1119 (b)), is amended by inserting before the period at the end thereof a colon and the following: "*Provided, however*, That, for the fiscal year 1969, there is authorized to be appropriated (1) for construction-differential subsidy and the cost of national defense features incident to construction, reconstruction, or reconditioning of ships for operation in foreign or noncontiguous domestic commerce, and for the acquisition of used ships pursuant to section 510 of this Act,

$300,000,000, to remain available until expended; and (2) for research and development, $25,000,000, to remain available until expended. For fiscal year 1969, there is also authorized to be appropriated for reconstruction of the reserve fleet, $30,000,000, to remain available until expended."

SEC. 2. Section 211 of the Merchant Marine Act, 1936 (46 U.S.C. 1121), is amended as follows:

(1) Subsection (b) is amended by inserting at the end thereof, immediately before the semicolon, a comma and the words "or which should be employed as contract carriers".

(2) Subsection (d) is amended by inserting after the words "services, routes, and lines" a comma and the words "or as contract carriers" and a comma, and by inserting after the words "service, route, or line" a comma and the words "or contract carrier".

SEC. 3. Section 501 of the Merchant Marine Act, 1936 (46 U.S.C. 1151), is amended as follows:

(1) By striking the first sentence of subsection (a) and inserting in lieu thereof the following: "Any privately owned shipyard or proposed shipowner who is a citizen of the United States may make application to the Secretary of Commerce for a construction-differential subsidy to aid in the construction of a new vessel to be documented under the laws of the United States and to be used in the foreign commerce of the United States."

(2) By striking out of the second sentence of subsection (a) the words "the applicant" and inserting in lieu thereof the words "the proposed owner of the vessel is a citizen of the United States and".

SEC. 4. Section 502 (a) of the Merchant Marine Act, 1936 (46 U.S.C. 1152 (a)), is amended by striking the word "applicant" wherever it appears and inserting in lieu thereof the words "proposed shipowner".

SEC. 5. Section 502 (b) of the Merchant Marine Act, 1936 (46 U.S.C. 1152 (b)), is amended as follows:

(1) By striking the first sentence and inserting in lieu thereof the following: "The amount of the reduction in selling price which is herein termed 'construction-differential subsidy' shall be computed by taking the excess of the fair and reasonable estimate, as determined by the Secretary, of the cost of constructing a type of vessel in United States shipyards (excluding the cost of any features incorporated in the vessel for national defense uses, which shall be paid by the Secretary in addition to the subsidy), over the fair and reasonable estimate of cost, as determined by the Secretary, of the construction of that type vessel (excluding national defense features as above provided) in a foreign shipbuilding center which is deemed by the Secretary to furnish a fair and representative example of the determination of the estimated foreign cost of construction of vessels of the type proposed to

be constructed, and expressing the result as a percentage of the fair and reasonable estimate, as determined by the Secretary, of the cost of construction of that type vessel in United States shipyards, and applying such percentage to the lowest responsible bid. Subsidy rates shall be computed separately for different types of vessels and shall be periodically recomputed but not more frequently than once each year. In making his foreign cost estimate, the Secretary shall review and consider any foreign cost estimates and substantiating information submitted by operators, shipyards, or his staff."

(2) By striking the date "June 30, 1968" and inserting in lieu thereof the words "the expiration of three years from the date of enactment of this amendment".

SEC. 6. Section 504 of the Merchant Marine Act, 1936 (46 U.S.C. 1154), is amended as follows:

(1) By inserting the designation "(a)" after the section number.

(2) By striking the word "applicant" wherever it appears in the first sentence and inserting in lieu thereof the words "proposed shipowner".

(3) By striking in the second sentence thereof the word "bid" wherever it appears and inserting in lieu thereof the words "bid or negotiated price".

(4) By inserting at the end of the third sentence

thereof before the period a comma and the words "or the negotiated price".

(5) By inserting after the first sentence thereof the following new sentence: "Alternatively, the Secretary may, in accordance with terms and conditions to be prescribed by him, permit the proposed shipowner to submit a negotiated price, together with backup cost details and evidence that the price is fair and reasonable."

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

"(b) Where a shipyard is the applicant, it may, in accordance with terms and conditions prescribed by the Secretary, request construction-differential subsidy based upon a price which has been negotiated with the proposed shipowner. If the Secretary considers the negotiated price to be fair and reasonable, he may become a party to a contract between the shipyard and the shipowner and agree to pay the cost of national defense features and construction-differential subsidy computed under section 502 (b) of this Act. If the Secretary determines that the negotiated price is not fair and reasonable, he may request renegotiation in an effort to arrive at a fair and reasonable price. As an alternative to accepting a negotiated price, the Secretary may, with the consent of the shipyard applicant, request competitive bids on the proposal, in which case, the applicant shipyard may be a bidder. In this event, the Secretary may become a party to a contract between the lowest competitive bidder and the proposed shipowner.

SEC. 7. Subsection (1) of section 510 (a) of the Merchant Marine Act, 1936 (46 U.S.C. 1160 (a)), is amended to read as follows:

"(1) The term 'obsolete vessel' means a vessel or vessels each of which is of not less than one thousand three hundred and fifty gross tons; which has been owned by a citizen or citizens of the United States for at least three years immediately prior to the date of acquisition hereunder; and which in the judgment of the Secretary should be replaced in the public interest."

SEC. 8. Section 801 of the Merchant Marine Act, 1936 (46 U.S.C 1211), is amended by striking "titles VI or VII" and inserting in lieu thereof "titles VI, VII, or XIII".

SEC. 9. Section 804 of the Merchant Marine Act, 1936 (46 U.S.C. 1222), is amended by striking the words "operating-differential subsidy under title VI" and inserting in lieu thereof the words "operating subsidy under titles VI or XIII".

SEC. 10. Section 805 of the Merchant Marine Act, 1936 (46 U.S.C. 1223), is amended as follows:

(1) Subsection (a) is amended by inserting after the words "title VI" the words "or title XIII".

(2) Subsection (c) is repealed.

(3) Subsection (d) is amended by inserting "under titles VI or XIII of this Act" following the word "contractor" in the last sentence.

SEC. 11. Contractors with the United States are released from the provisions of their contracts which were inserted pursuant to the provisions of section 805 (c) of the Merchant Marine Act, 1936 (46 U.S.C. 1223 (c)).

SEC. 12. Section 810 of the Merchant Marine Act, 1936 (46 U.S.C. 1227), is amended by striking the words "operating-differential" and inserting in lieu thereof the word "operating", and by striking the words "title VI" and inserting in lieu thereof the words "titles VI or XIII".

SEC. 13. Section 905 of the Merchant Marine Act, 1936 (46 U.S.C. 1244 (c)), is amended as follows: By striking in subsection (c) the words "under title VI" and inserting in lieu thereof the words "under titles VI or XVIII".

SEC. 14. The Merchant Marine Act, 1936, is amended by inserting a new title X to read as follows:

"TITLE X—AID IN DEVELOPING, CONSTRUCTING, AND OPERATING PRIVATELY OWNED NUCLEAR-POWERED MERCHANT SHIPS

"SEC. 1001. The purpose of this title is to further implement the policy declared in section 101 of this Act, by fostering at the least cost to the United States the development, construction, and operation of privately owned nuclear-powered merchant ships whose designs embody significant departures from the designs of existing nuclear-powered merchant ships which may lead to reduction of the cost of constructing and operating future nuclear-powered merchant ships.

"SEC. 1002. The Secretary of Commerce is authorized to invite from citizens of the United States proposals for the development and construction of nuclear-powered merchant ships for operation in the domestic or foreign commerce of the United States, including trade on the Great Lakes. Proposals shall be invited only for the development and construction of nuclear-powered merchant ships (1) of types and general specifications (whether dry cargo, liquid bulk carrier, or other) determined by the Secretary of Commerce, and (2) with nuclear propulsion systems of general types and conceptual designs which the Atomic Energy Commission has determined could reasonably be expected to accomplish nuclear power base development program objectives

more quickly, more effectively, or at lower cost than other nuclear propulsion systems (these would include, without limitation, objectives of dependability, reliability, operability, and the acquisition of data that would be of value to the future development of merchant marine nuclear propulsion systems). Each proposal shall include a detailed description of the proposed ship or ships; their contemplated use in commerce; the proposed development, construction, and operating programs; the technical justification and detailed estimate of development, construction, and operating costs; the amount of aid applied for itemized separately for the development, construction, and operating programs; and such other information as the Secretary directs.

"SEC. 1003. The Secretary, in cooperation with the Atomic Energy Commission, shall evaluate all proposals determined to be responsive to the invitation and shall select from them the proposal or proposals which will most closely carry out the purposes of this title. If the Secretary determines that the person who submitted a selected proposal, although such person may have had no experience in the operation of nuclear-powered ships, possesses the ability, experience, financial resources, and other qualifications necessary to enable him to operate and maintain ships in that area of the domestic or foreign commerce of the United

States (including trade on the Great Lakes) in which he proposes to operate the proposed ship or ships, the Secretary may negotiate the award of a contract with such person (hereafter called the applicant) for the development and construction of the proposed ship or ships. The Secretary may require such modifications in the proposed ship or ships as he deems desirable, taking into account the views of the Atomic Energy Commission with respect to modifications of the nuclear propulsion system, and the views of the Secretary of Defense with respect to national defense features. The Secretary may agree to provide so much of the aid authorized by section 1004 of this title as he determines is necessary to carry out the purposes of this title, taking into consideration the financial risk to the applicant, and the contribution which the development, construction, and operation of the proposed ship or ships may make toward carrying out the purposes of this title.

"SEC. 1004. (a) (1) In connection with the development and construction of vessels proposed and selected pursuant to section 1003, the Secretary may offer the following assistance:

"(A) With the scientific and engineering advice of the Atomic Energy Commission, he may assist in negotiating the award of and become a party to contracts between the applicant and the developer for the develop-

ment of the proposed nuclear-powered merchant ship or ships, including the first fuel cores. He may agree in such contracts to pay the developer all of, or part of, the excess of the cost of developing the proposed ship or ships, including national defense features and the first fuel cores, over the estimated fair and reasonable cost of developing a comparable conventional ship or ships without national defense features.

"(B) He may become a party to contracts between the applicant and the builder for the construction of the proposed nuclear-powered merchant ship or ships, and may agree in such contracts to pay the builder all of, or part of, the excess of the cost of constructing in the United States the proposed ship or ships, including national defense features and the first fuel cores, over the estimated average weighted fair and reasonable foreign cost of constructing a comparable conventional ship or ships without national defense features: *Provided, however,* That if the ship or ships are to be operated in the domestic trade (except the noncontiguous domestic trade) aid under this paragraph is limited to the excess of the cost of constructing in the United States the proposed ship or ships, including national defense features and the first fuel cores, over the estimated fair and reasonable cost of constructing a comparable conventional ship without national defense features in the United States.

"(2) The Secretary may also assist in training crews for the ships; plan and design or assist in planning and designing appropriate shore facilities to service the ships; make available to the applicant, with the consent of the Atomic Energy Commission, appropriate classified information; provide research and development in Government laboratories which have facilities, personnel, or equipment not available in private laboratories, with the consent of the department or agency which operates the laboratory, and with or without charge to the applicant; and provide, without charge, design review services, ship construction inspection services, and ship operation advisory services.

"(3) If, under section 184 of the Atomic Energy Act of 1954 (42 U.S.C. 2234), the Atomic Energy Commission consents to the creation of a mortgage or lien on the nuclear-powered merchant ship, and if the loan and mortgage are eligible for insurance under title XI of this Act, the Secretary may insure under that title the interest on and the unpaid balance of the principal amount of the loan and mortgage. In determining the applicant's eligibility, the Secretary is not required to make the finding required by subsection (c) of section 1004 of this Act. The Secretary may make the findings required by subsections (a) (1) and (b)

(1) of section 1104 even though the applicant has had no experience in the operation of nuclear-powered merchant ships. The applicability of section 184 of the Atomic Energy Act of 1954 to the ship shall not prevent a mortgage on the ship from being a preferred mortgage under the Ship Mortgage Act, 1920.

"(b) In providing the aid specified in subsection (a) of this section, the Secretary may, upon payment of the costs, and with the consent of the department or agency concerned, avail himself of the use of licenses, information, services, facilities, offices, and employees of any executive department, independent establishment, or other agency of the Government, including any field service thereof.

"(c) Section 505 (a) of this Act shall apply to all ships whose construction is aided under this title.

"SEC. 1005. Each applicant for aid under this title shall agree that if the ship, after its construction is completed, cannot at any time be operated for a period of more than thirty days because of an interunion dispute in which the fact that the ship is nuclear powered is an important element, the owner will, if so directed by the Secretary of Commerce, place the vessel up for sale at competitive bidding, with a minimum price in the amount that would be paid if the vessel were requisitioned for title, and on such other terms and conditions as the Secretary of Commerce determines will be conducive to the continued operation of the ship. This obligation shall run with the title to the vessel.

"SEC. 1006. Any ship developed and constructed with aid under this title shall be documented under the laws of the United States and shall remain so documented for twenty-five years or so long as it is propelled by nuclear propulsion, whichever is longer.

"SEC. 1007. Ships whose construction is aided under this title are eligible to receive operating-differential subsidy under whatever system is in force when the ships go into operation if the applicant qualifies under the statute.

"SEC. 1008. There are authorized to be appropriated each fiscal year only such sums as the Congress may hereafter specifically authorize by law to carry out the provisions of this title.

"SEC. 1009. Authority to contract for the development or construction of ships under this title expires at midnight on the last day of the sixtieth month following the month in which this title is enacted."

SEC. 15. Section 152 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2182), is amended as follows:

(1) By inserting in the first sentence thereof immediately after the words "with or for the benefit of the Commission" a comma and the following: "or with the

Secretary of Commerce under the authority of title X of the Merchant Marine Act, 1936, as amended".

(2) By striking the words "by the Commission" in the first sentence and inserting the words "by the Commission or the Secretary".

SEC. 16. Subsection (l) of section 170 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2210(l)), is amended by inserting in the first sentence thereof immediately before the period a comma and the following: "or any ship whose development or construction is aided under title X of the Merchant Marine Act, 1936, as amended".

SEC. 17. The second sentence of the second paragraph of section 607(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(b)), is amended by inserting after the words "authorized under section 613 of this title" a comma and the words "or new nuclear fuel cores for vessels" and a comma.

SEC. 18. Section 1104(a)(5) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(5)), is amended to read as follows:

"(5) shall secure bonds, notes, or other obligations bearing interest (exclusive of premium charges for insurance, and service charges, if any) at rates not to exceed such per centum per annum on the principal obligation outstanding as the Secretary of Commerce determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Department of Commerce;"

SEC. 19. Section 1106 (2) of the Merchant Marine Act, 1936 (46 U.S.C. 1276 (2)), is amended by inserting after the words "for reconditioning or reconstructing the mortgaged property" the words "or to provide a new nuclear fuel core for the mortgaged property".

SEC. 20. The Merchant Marine Act, 1936, is amended by inserting a new title XIII to read as follows:

"TITLE XIII—EXPERIMENTAL OPERATING SUBSIDY

"SEC. 1301. The Secretary of Commerce is authorized to enter into five-year experimental contracts with liner operators for the payment of operating subsidy for the operation of liner vessels in the foreign commerce of the United States and with owners of dry bulk vessels built after the enactment of this title for operation as contract carriers in the foreign commerce of the United States, subject to such terms and conditions as the Secretary may determine.

"SEC. 1302. A subsidy contract may be awarded on any service which the Secretary, in his discretion, without public hearing, determines is not adequately served. Applicants for such contracts must meet the eligibility requirements of section 601 of this Act. The Secretary, in his discretion, may apply the provisions of sections 605 (a) and

(b), 606 (5), (6), and (7), 607 (a), (b), (c), (d), (e), (f), and (g), 608, 609, 610, and 611 of this Act, or any of them, to contracts entered into under this title. He may also in his discretion, apply the provisions of section 607 (h) to contracts entered into under this title with liner operators.

"SEC. 1303. The amount payable during the first year of the subsidy contract shall not exceed the difference between the costs incurred in operating the ship for instance, wages, maintenance and repair, and the cost of such items incurred in the operation of a comparable ship under the flag of a foreign country whose ships are substantial competitors of the subsidized ship. During the subsequent years of the contract, the amount of subsidy shall be computed in such manner as the Secretary in his discretion may determine. In developing any new system the Secretary shall be guided by the overriding principle that the system must contain incentives which can be reasonably expected to reduce unit costs of subsidy in the future. Such incentives may include the use of an objective index or indices to govern the annual change in costs eligible for subsidy, the use of a formula or formulas reasonably relating the amount of subsidy payable to the performance or production of subsidized service, or the use of such other reasonable approaches to the determination of the amount of subsidy as the Secretary may in his discretion establish.

"Sec. 1304. Such contracts shall provide that upon their termination the operator shall have the option of receiving a contract for the operation of his vessels under whatever subsidy system is in force at that time, or of selling his ships to the Government for a price not to exceed their depreciated book value."

Sec. 21. (1) There is hereby established a Commission to be known as the Commission on American Shipbuilding (hereinafter referred to as the "Commission"). The Commission shall be composed of six members, appointed by the President. At least one member shall be from the United States shipbuilding industry. Members of the Commission shall be appointed for the life of the Commission. The President shall designate one of the members of the Commission as Chairman. Four members of the Commission shall constitute a quorum.

(2) Members of the Commission shall each be entitled to receive $100 per diem when engaged in the actual performance of duties vested in the Commission, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5

of the United States Code for persons in the Government service employed intermittently.

(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

(4) The Commission shall have the power to appoint and fix the compensation of such personnel, as it deems advisable, subject to the civil service laws and the Classification Act of 1949, as amended.

(5) The Commission may procure, in accordance with the provisions of title 5 of the United States Code, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $100 per diem, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.

(6) The Commission shall conduct a study of the extent to which Federal assistance to the private shipbuilding industry in the United States is necessary to preserve the competitive position of such industry and to preserve a national capability for the building and repair of United States merchant and United States naval ships.

(7) The Commission shall not later than three years after the date of enactment of this Act submit a comprehensive report of its findings and recommendations to the President and to the Congress, and thereafter shall cease to exist.

SEC. 22. The Merchant Marine Act, 1936, is amended by inserting a new title XIV to read as follows:

"TITLE XIV—REPLACEMENT AND EXPANSION OF UNITED STATES NONSUBSIDIZED MERCHANT AND FISHING FLEETS

"SEC. 1401. AUTHORITY TO NEGOTIATE CONTRACTS.—(a) For the purpose of promoting the construction or acquisition of new merchant vessels or the substantial reconstruction of existing merchant vessels and for other purposes authorized by this Act, the Secretary of Commerce may enter into contracts not to exceed twenty years with any person who is a citizen of the United States if the Secretary determines the person possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the merchant vessels as to meet competitive conditions and promote United States domestic or foreign commerce.

"(b) For the purpose of promoting the construction of new fishing vessels, the Secretary of the Interior may enter into contracts not to exceed twenty years with any person

who is a citizen of the United States if the Secretary determines the person possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the fishing vessel to meet competitive conditions and promote the utilization of fishery resources.

"SEC. 1402. TERMS AND CONDITIONS OF CONTRACT.—The Secretary shall include in each contract a provision—

"(a) that any new vessel constructed under a contract will be built in a shipyard in the United States under a contract with a shipbuilder entered into after the effective date of this Act;

"(b) that any new vessel acquired under a contract will be one that was built in a shipyard in the United States for the United States Government under a contract with a shipbuilder entered into after the effective date of this Act;

"(c) that any vessel substantially reconstructed under a contract will be one that was built in a shipyard in the United States and will be substantially reconstructed in a shipyard in the United States under a contract with a shipbuilder entered into after the effective date of this Act;

"(d) that any vessel constructed, acquired, or substantially reconstructed under a contract will be of a type, size, and speed that the Secretary determines to be suitable for use on the high seas or Great Lakes;

"(e) that any vessel constructed, acquired, or substantially reconstructed under a contract negotiated under section 1 (a) will be of a type which the Secretary of the Navy certifies is suitable for economical and speedy conversion into a naval auxiliary or otherwise suitable for use by the United States in the event of war or national emergency;

"(f) for the creation and maintenance of a capital reserve fund;

"(g) for the approximate number and type of vessels which the contractor will construct, acquire, or substantially reconstruct subject to modifications and extensions upon a showing to the satisfaction of the Secretary of acceptable reasons for modifications or extensions;

"(h) for additional terms and conditions consistent with this Act, that the Secretary determines to be necessary to protect the interest of the United States;

"(i) for the early replacement of any war-built vessel used in the movement of cargo under section 901 (b), Merchant Marine Act, 1936, as amended;

"(j) that each contractor agrees not to incur any purchase money indebtedness with respect to any vessel con-

structed, acquired, or substantially reconstructed under a contract without the prior consent of the Secretary;

"(k) that upon failure of the contractor to construct, acquire, or substantially reconstruct any vessel as provided in the contract as modified or extended, all deposits of the contractor will be withdrawn from the fund with the same tax consequences as result from withdrawals from the funds created by section 607, Merchant Marine Act, 1936, as amended, and no further deposits may be made by the contractor until a new contract is negotiated; and

"(l) that the contractor agrees that any vessel constructed or acquired under a contract will remain documented under the laws of the United States for twenty-five years from the date of its delivery by the shipbuilder and any vessel reconstructed under a contract will remain documented under the laws of the United States for the remainder of its economic life as determined by the Secretary.

"SEC. 1403. CREATION AND MAINTENANCE OF CAPITAL RESERVE FUND.—(a) Each contractor shall create and maintain for the duration of the contract, in depositories approved by the Secretary, a capital reserve fund under the joint control of the operator and the Secretary.

"(b) Each contractor shall deposit in the capital reserve fund as is required to be deposited by subsidized operators under section 607, Merchant Marine Act, 1936, as amended, the proceeds of sales of vessels, the proceeds of insurance and indemnities, the depreciation charges, as earned, and the earnings made on deposits in the capital reserve fund, and shall annually deposit any percentage of differential payments received on the movement of cargo under section 901 (b), Merchant Marine Act, 1936, as amended, that the Secretary determines is from profits and is necessary to fulfill the contractor's obligation under the contract.

"(c) The contractor may deposit in the fund other earnings from his vessel operations.

"SEC. 1404. TAX DEFERMENT OF DEPOSITS IN THE FUND.—(a) Deposits of capital gains into the fund are taxed in the same manner as deposits of capital gains by subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"(b) Deposits of earnings and differential payments into the fund are taxed in the same manner as deposits of earnings of subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"SEC. 1405. WITHDRAWALS FROM THE FUND.—Con-

tractors may withdraw deposits from the fund with the same restriction and limitation, under the same conditions and with the same tax consequences as deposits may be withdrawn from the capital reserve fund by subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"SEC. 1406. INVESTMENT OF THE FUND.—Contractors may invest deposits in the fund under the conditions and with the same restriction as deposits of subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"SEC. 1407. DISCONTINUANCE OF DIFFERENTIAL PAYMENTS.—No operator of a nonsubsidized vessel may receive any differential payments for cargo moved by such vessel under section 901 (b), Merchant Marine Act, 1936, as amended, unless the operator has concluded a contract with the Secretary under this Act before January 1, 1968.

"SEC. 1408. DEFINITIONS.—In this Act—

"(a) 'Contract' means a vessel construction, acquisition, or reconstruction contract authorized by this Act.

"(b) 'Differential payments' means the payments made by the United States Government to operators of United States-flag merchant vessels for the movement of cargo under section 901 (b), Merchant Marine Act, 1936, as amended, at rates in excess of world market rates.

"(c) 'Documented' includes enrolled.

"(d) 'Earnings from the operation of vessels' includes hire from bareboat charters.

"(e) 'Earnings made on deposits' means earnings on funds deposited as well as earnings on accumulated earnings and gains made on sale of securities.

"(f) 'Fund' means the capital reserve fund authorized by this Act.

"(g) 'Nonsubsidized vessel' means any vessel not included in an operating differential subsidy contract under the Merchant Marine Act, 1936, as amended.

"(h) 'Person' includes corporation.

"(i) 'Reconstruction' means the substantial reconstruction and major modernization of a vessel if the Secretary determines that the objectives of this Act will be promoted by such reconstruction.

"(j) 'Secretary' means the Secretary of Commerce in reference to powers and duties relating to contracts for the construction, acquisition, or substantial reconstruction of merchant vessels and means the Secretary of the Interior in reference to powers and duties relating to contracts for the construction of fishing vessels.

"(k) 'Subsidized operators' means persons who have an operating differential subsidy contract under the Merchant Marine Act, 1936, as amended.

"(l) 'Vessel' includes non-self-propelled vessels, cargo containers, cargo vans, and other related equipment.

"(m) 'War-built vessel' means a vessel as defined in section 3, Merchant Ship Sales Act, 1946."

90TH CONGRESS
1ST SESSION

H. R. 13941

A BILL

To amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program.

By Mr. LENNON

NOVEMBER 9, 1967

Referred to the Committee on Merchant Marine and Fisheries

90TH CONGRESS
1ST SESSION

S. 2650

IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 1967

MR. MAGNUSON (for himself, MR. BARTLETT, and MR. BREWSTER) introduced the following bill; which was read twice and referred to the Committee on Commerce

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A BILL

To amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 209 (b) of the Merchant Marine Act, 1936 (46 U.S.C. 1119 (b)), is amended by inserting before the period at the end thereof a colon and the following: "*Provided, however,* That for each of the fiscal years 1969 through 1973, there is authorized to be appropriated (1) for construction-differential subsidy and the cost of national defense features incident to construction, reconstruction, or reconditioning of ships for operation in foreign or noncontiguous domestic commerce, and for the acquisition of used ships pursuant to section 510 of this Act, $300,000,000, to remain available until expended; and (2) for research and development, $25,000,000, to remain available until expended. For fiscal year 1969, there is also authorized to be appropriated for reconstruction of the reserve fleet, $30,000,000, to remain available until expended."

SEC. 2. Section 211 of the Merchant Marine Act, 1936 (46 U.S.C. 1121), is amended as follows:

(1) Subsection (b) is amended by inserting at the end thereof, immediately before the semicolon, a comma and the words "or which should be employed as contract carriers".

(2) Subsection (d) is amended by inserting after the words "services, routes, and lines" a comma and the words "or as contract carriers" and a comma, and by inserting after the words "service, route, or line" a comma and the words "or contract carrier".

SEC. 3. Section 501 of the Merchant Marine Act, 1936 (46 U.S.C. 1151), is amended as follows:

(1) By striking the first sentence of subsection (a) and inserting in lieu thereof the following: "Any privately owned shipyard or proposed shipowner who is a citizen of the United States may make application to the Secretary of Commerce for a construction-differential subsidy to aid in the construction of a new vessel to be documented under the

laws of the United States and to be used in the foreign commerce of the United States."

(2) By striking out of the second sentence of subsection (a) the words "the applicant" and inserting in lieu the words "the proposed owner of the vessel is a citizen of the United States and".

SEC. 4. Section 502 (a) of the Merchant Marine Act, 1936 (46 U.S.C. 1152 (a)), is amended by striking the word "applicant" wherever it appears and inserting in lieu thereof the words "proposed shipowner".

SEC. 5. Section 502 (b) of the Merchant Marine Act, 1936 (46 U.S.C. 1152 (b)), is amended as follows:

(1) By striking the first sentence and inserting in lieu thereof the following: "The amount of the reduction in selling price which is herein termed 'construction-differential subsidy' shall be computed by taking the excess of the fair and reasonable estimate, as determined by the Secretary, of the cost of constructing a type of vessel in United States shipyards (excluding the cost of any features incorporated in the vessel for national defense uses, which shall be paid by the Secretary in addition to the subsidy), over the fair and reasonable estimate of cost, as determined by the Secretary, of the construction of that type vessel (excluding national defense features as above provided) in a foreign shipbuilding center

which is deemed by the Secretary to furnish a fair and representative example of the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed, and expressing the result as a percentage of the fair and reasonable estimate, as determined by the Secretary, of the cost of construction of that type vessel in United States shipyards, and applying such percentage to the lowest responsible bid. Subsidy rates shall be computed separately for different types of vessels and shall be periodically recomputed but not more frequently than once each year. In making his foreign cost estimate, the Secretary shall review and consider any foreign cost estimates and substantiating information submitted by operators, shipyards, or his staff."

(2) By striking the date "June 30, 1968" and inserting in lieu thereof the words "the expiration of three years from the date of enactment of this amendment".

SEC. 6. Section 504 of the Merchant Marine Act, 1936 (46 U.S.C. 1154), is amended as follows:

(1) By inserting the designation "(a)" after the section number.

(2) By striking the word "applicant" wherever it appears in the first sentence and inserting in lieu thereof the words "proposed shipowner".

(3) By striking in the second sentence thereof the word

"bid" wherever it appears and inserting in lieu thereof the the words "bid or negotiated price".

(4) By inserting at the end of the third sentence thereof before the period a comma and the words "or the negotiated price".

(5) By inserting after the first sentence thereof the following new sentence: "Alternatively, the Secretary may, in accordance with terms and conditions to be prescribed by him, permit the proposed shipowner to submit a negotiated price together with backup cost details and evidence that the price is fair and reasonable."

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

"(b) Where a shipyard is the applicant, it may, in accordance with terms and conditions prescribed by the Secretary, request construction-differential subsidy based upon a price which has been negotiated with the proposed shipowner. If the Secretary considers the negotiated price to be fair and reasonable, he may become a party to a contract between the shipyard and the shipowner and agree to pay the cost of national defense features and construction-differential subsidy computed under section 502 (b) of this Act. If the Secretary determines that the negotiated price is not fair and reasonable, he may request renegotiation in an effort to arrive at a fair and reasonable price. As an alternative to accepting a negotiated price, the Secretary may, with the consent of the shipyard applicant, request competitive bids on the proposal, in which case, the applicant shipyard may be a bidder. In this event, the Secretary may become a party to a contract between the lowest competitive bidder and the proposed shipowner.

SEC. 7. Subsection (1) of section 510 (a) of the Merchant Marine Act, 1936 (46 U.S.C. 1160 (a)), is amended to read as follows:

"(1) The term 'obsolete vessel' means a vessel or vessels each of which is of not less than one thousand three hundred and fifty gross tons; which has been owned by a citizen or citizens of the United States for at least three years immediately prior to the date of acquisition hereunder; and which in the judgment of the Secretary should be replaced in the public interest."

SEC. 8. Section 801 of the Merchant Marine Act, 1936 (46 U.S.C. 1211), is amended by striking "titles VI or VII" and inserting in lieu thereof "titles VI, VII, or XIII".

SEC. 9. Section 804 of the Merchant Marine Act, 1936 (46 U.S.C. 1222), is amended by striking the words "operating-differential subsidy under title VI" and inserting in

lieu thereof the words "operating subsidy under title VI or XIII".

SEC. 10. Section 805 of the Merchant Marine Act, 1936 (46 U.S.C. 1223), is amended as follows:

(1) Subsection (a) is amended by inserting after the words "title VI" the words "or title XIII".

(2) Subsection (c) is repealed.

(3) Subsection (d) is amended by inserting "under titles VI or XIII of this Act" following the word "contractor" in the last sentence.

SEC. 11. Contractors with the United States are released from the provisions of their contracts which were inserted pursuant to the provisions of section 805 (c) of the Merchant Marine Act, 1936 (46 U.S.C. 1223 (c)).

SEC. 12. Section 810 of the Merchant Marine Act, 1936 (46 U.S.C. 1227), is amended by striking the words "operating-differential" and inserting in lieu thereof the word "operating", and by striking the words "title VI" and inserting in lieu thereof the words "titles VI or XIII".

SEC. 13. Section 905 of the Merchant Marine Act, 1936 (46 U.S.C. 1244 (c)), is amended as follows:

(1) By striking in subsection (c) the words "under title VI" and inserting in lieu thereof the words "under titles VI or XIII".

SEC. 14. The Merchant Marine Act, 1936, is amended by inserting a new title X to read as follows:

"TITLE X—AID IN DEVELOPING, CONSTRUCTING, AND OPERATING PRIVATELY OWNED NUCLEAR-POWERED MERCHANT SHIPS

"SEC. 1001. The purpose of this title is to further implement the policy declared in section 101 of this Act, by fostering at the least cost to the United States the development, construction, and operation of privately owned nuclear-powered merchant ships whose designs embody significant departures from the designs of existing nuclear-powered merchant ships which may lead to reduction of the cost of constructing and operating future nuclear-powered merchant ships.

"SEC. 1002. The Secretary of Commerce is authorized to invite from citizens of the United States proposals for the development and construction of nuclear-powered merchant ships for operation in the domestic or foreign commerce of the United States, including trade on the Great Lakes. Proposals shall be invited only for the development and construction of nuclear-powered merchant ships (1) of types and general specifications (whether dry-cargo, liquid bulk carrier, or other) determined by the Secretary of Commerce, and (2) with nuclear propulsion systems of general types and conceptual designs which the Atomic Energy Commission has determined could reasonably be expected to accomplish nuclear power base development program objectives more quickly, more effectively, or at lower cost than other nuclear propulsion systems (these would include, without limitation, objectives of dependability, reliability, operability, and the acquisition of data that would be of value to the future development of merchant marine nuclear propulsion systems). Each proposal shall include a detailed description of the proposed ship or ships; their contemplated use in commerce; the proposed development, construction, and operating programs; the technical justification and detailed estimate of development, construction, and operating costs; the amount of aid applied for itemized separately for the development, construction, and operating programs; and such other information as the Secretary directs.

"SEC. 1003. The Secretary, in cooperation with the Atomic Energy Commission, shall evaluate all proposals determined to be responsive to the invitation and shall select from them the proposal or proposals which will most closely carry out the purposes of this title. If the Secretary determines that the person who submitted a selected proposal, although such person may have had no experience in the operation of nuclear-powered ships, possesses the ability, experience, financial resources, and other qualifications necessary to enable him to operate and maintain ships in that area of the domestic or foreign commerce of the United States (including trade on the Great Lakes) in which he proposes to operate the proposed ship or ships, the Secretary may negotiate the award of a contract with such person (hereafter called the applicant) for the development and construction of the proposed ship or ships. The Secretary may require such modifications in the proposed ship or ships as he deems desirable, taking into account the views of the Atomic Energy Commission with respect to modifications of the nuclear propulsion system, and the views of the Secretary of Defense with respect to national defense features. The Secretary may agree to provide so much of the aid authorized by section 1004 of this title as he determines is necessary to carry out the purposes of this title, taking into consideration the financial risk to the applicant, and the contribution which the development, construction, and operation of the proposed ship or ships may make toward carrying out the purposes of this title.

"SEC. 1004. (a) (1) In connection with the development and construction of vessels proposed and selected pursuant to section 1003, the Secretary may offer the following assistance:

(A) With the scientific and engineering advice of the Atomic Energy Commission, he may assist in nego-

tiating the award of and become a party to contracts between the applicant and the developer for the development of the proposed nuclear-powered merchant ship or ships, including the first fuel cores. He may agree in such contracts to pay the developer all of, or part of, the excess of the cost of developing the proposed ship or ships, including national defense features and the first fuel cores, over the estimated fair and reasonable cost of developing a comparable conventional ship or ships without national defense features.

(B) He may become a party to contracts between the applicant and the builder for the construction of the proposed nuclear-powered merchant ship or ships, and may agree in such contracts to pay the builder all of, or part of, the excess of the cost of constructing in the United States the proposed ship or ships, including national defense features and the first fuel cores, over the estimated average weighted fair and reasonable foreign cost of constructing a comparable conventional ship or ships without national defense features: *Provided, however,* That if the ship or ships are to be operated in the domestic trade (except the noncontiguous domestic trade) aid under this paragraph is limited to the excess of the cost of constructing in the United States the proposed ship or ships, including national defense features and the first fuel cores, over the estimated fair and reasonable cost of constructing a comparable conventional ship without national defense features in the United States.

(2) The Secretary may also assist in training crews for the ships; plan and design or assist in planning and designing appropriate shore facilities to service the ships; make available to the applicant, with the consent of the Atomic Energy Commission, appropriate classified information; provide research and development in Government laboratories which have facilities, personnel, or equipment not available in private laboratories, with the consent of the department or agency which operates the laboratory, and with or without charge to the applicant; and provide, without charge, design review services, ship construction inspection services and ship operation advisory services.

(3) If, under section 184 of the Atomic Energy Act of 1954 (42 U.S.C. 2234), the Atomic Energy Commission consents to the creation of a mortgage or lien on the nuclear-powered merchant ship, and if the loan and mortgage are eligible for insurance under title XI of this Act, the Secretary may insure under that title the interest on and the unpaid balance of the principal amount of the loan and mortgage. In determining the applicant's eligibility, the Secretary is not required to make the finding required by sub-

section (c) of section 1004 of this Act. The Secretary may make the findings required by subsections (a) (1) and (b) (1) of section 1104 even though the applicant has had no experience in the operation of nuclear-powered merchant ships. The applicability of section 184 of the Atomic Energy Act of 1954 to the ship shall not prevent a mortgage on the ship from being a preferred mortgage under the Ship Mortgage Act, 1920.

"(b) In providing the aid specified in subsection (a) of this section, the Secretary may, upon payment of the costs, and with the consent of the department or agency concerned, avail himself of the use of licenses, information, services, facilities, offices, and employees of any executive department, independent establishment, or other agency of the Government, including any field service thereof.

"(c) Section 505 (a) of this Act shall apply to all ships whose construction is aided under this title.

"SEC. 1005. Each applicant for aid under this title shall agree that if the ship, after its construction is completed, cannot at any time be operated for a period of more than thirty days because of an interunion dispute in which the fact that the ship is nuclear-powered is an important element, the owner will, if so directed by the Secretary of Commerce, place the vessel up for sale at competitive bidding, with a minimum price in the amount that would be paid if the vessel were requisitioned for title, and on such other terms and conditions as the Secretary of Commerce determines will be conducive to the continued operation of the ship. This obligation shall run with the title to the vessel.

"SEC. 1006. Any ship developed and constructed with aid under this title shall be documented under the laws of the United States and shall remain so documented for twenty-five years or so long as it is propelled by nuclear propulsion, whichever is longer.

"SEC. 1007. Ships whose construction is aided under this title are eligible to receive operating-differential subsidy under whatever system is in force when the ships go into operation if the applicant qualifies under the statute.

"SEC. 1008. There are authorized to be appropriated to the Secretary such sums as may be necessary, to remain available until expended, to carry out the provisions of this title.

"SEC. 1009. Authority to contract for the development or construction of ships under this title expires at midnight on the last day of the sixtieth month following the month in which this title is enacted."

SEC. 15. Section 152 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2182), is amended as follows:

(1) By inserting in the first sentence thereof immediately after the words "with or for the benefit of the Commission" a comma and the following: "or with the Secretary of Commerce under the authority of title X of the Merchant Marine Act, 1936, as amended".

(2) By striking the words "by the Commission" in the first sentence and inserting the words "by the Commission or the Secretary".

SEC. 16. Subsection (1) of section 170 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2210(1)), is amended by inserting in the first sentence thereof immediately before the period a comma and the following: "or any ship whose development or construction is aided under title X of the Merchant Marine Act, 1936, as amended".

SEC. 17. The second sentence of the second paragraph of section 607(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(b)), is amended by inserting after the words "authorized under section 613 of this title" a comma and the words "or new nuclear fuel cores for vessels" and a comma.

SEC. 18. Section 1104(a)(5) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(5)), is amended to read as follows:

"(5) shall secure bonds, notes, or other obligations bearing interest (exclusive of premium charges for insurance, and service charges, if any) at rates not to exceed such per centum per annum on the principal obligation outstanding as the Secretary of Commerce determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Department of Commerce;"

SEC. 19. Section 1106(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1276(2)), is amended by inserting after the words "for reconditioning or reconstructing the mortgaged property" the words "or to provide a new nuclear fuel core for the mortgaged property".

SEC. 20. The Merchant Marine Act, 1936, is amended by inserting a new title XIII to read as follows:

"TITLE XIII—EXPERIMENTAL OPERATING SUBSIDY

"SEC. 1301. The Secretary of Commerce is authorized to enter into five-year experimental contracts with liner operators for the payment of operating subsidy for the operation of liner vessels in the foreign commerce of the United States and with owners of dry bulk vessels built after the enactment of this title for operation as contract carriers in the foreign commerce of the United States, subject to such terms and conditions as the Secretary may determine.

"SEC. 1302. A subsidy contract may be awarded on any

service which the Secretary, in his discretion, without public hearing, determines is not adequately served. Applicants for such contracts must meet the eligibility requirements of section 601 of this Act. The Secretary, in his discretion, may apply the provisions of sections 605 (a) and (b), 606 (5), (6), and (7), 607 (a), (b), (c), (d), (e), (f), and (g), 608, 609, 610, and 611 of this Act, or any of them, to contracts entered into under this title. He may also, in his discretion, apply the provisions of section 607(h) to contracts entered into under this title with liner operators.

"SEC. 1303. The amount payable during the first year of the subsidy contract shall not exceed the difference between the costs incurred in operating the ship for insurance, wages, maintenance and repair, and the cost of such items incurred in the operation of a comparable ship under the flag of a foreign country whose ships are substantial competitors of the subsidized ship. During the subsequent years of the contract, the amount of subsidy shall be computed in such manner as the Secretary in his discretion may determine. In developing any new system the Secretary shall be guided by the overriding principle that the system must contain incentives which can be reasonably expected to reduce unit costs of subsidy in the future. Such incentives may include the use of an objective index or indices to govern the annual change in costs eligible for subsidy, the use of a formula or formulas reasonably relating the amount of subsidy payable to the performance or production of subsidized service, or the use of such other reasonable approaches to the determination of the amount of subsidy as the Secretary may in his discretion establish.

"SEC. 1304. Such contracts shall provide that upon their termination the operator shall have the option of receiving a contract for the operation of his vessels under whatever subsidy system is in force at that time, or of selling his ships to the Government for a price not to exceed their depreciated book value."

SEC. 21. (1) There is hereby established a Commission to be known as the Commission on American Shipbuilding (hereinafter referred to as the "Commission"). The Commission shall be composed of six members, appointed by the President. At least one member shall be from the United States shipbuilding industry. Members of the Commission shall be appointed for the life of the Commission. The President shall designate one of the members of the Commission as Chairman. Four members of the Commission shall constitute a quorum.

(2) Members of the Commission shall each be entitled to receive $100 per diem when engaged in the actual performance of duties vested in the Commission, including traveltime, and while away from their homes or regular

places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.

(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

(4) The Commission shall have the power to appoint and fix the compensation of such personnel, as it deems advisable, subject to the civil service laws and the Classification Act of 1949, as amended.

(5) The Commission may procure, in accordance with the provisions of title 5 of the United States Code, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $100 per diem, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.

(6) The Commission shall conduct a study of the extent to which Federal assistance to the private shipbuilding industry in the United States is necessary to preserve the competitive position of such industry and to preserve a national

capability for the building and repair of United States merchant and United States naval ships.

(7) The Commission shall not later than three years after the date of enactment of this Act submit a comprehensive report of its findings and recommendations to the President and to the Congress, and thereafter shall cease to exist.

SEC. 22. The Merchant Marine Act, 1936, is amended by inserting a new title XIV to read as follows:

"TITLE XIV—REPLACEMENT AND EXPANSION OF UNITED STATES NONSUBSIDIZED MERCHANT AND FISHING FLEETS

"SEC. 1401. AUTHORITY TO NEGOTIATE CONTRACTS.—(a) For the purpose of promoting the construction or acquisition of new merchant vessels or the substantial reconstruction of existing merchant vessels and for other purposes authorized by this Act, the Secretary of Commerce may enter into contracts not to exceed twenty years with any person who is a citizen of the United States if the Secretary determines the person possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the merchant vessels as to meet competitive conditions and promote United States domestic or foreign commerce.

"(b) For the purpose of promoting the construction of

new fishing vessels, the Secretary of the Interior may enter into contracts not to exceed twenty years with any person who is a citizen of the United States if the Secretary determines the person possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the fishing vessel to meet competitive conditions and promote the utilization of fishery resources.

"SEC. 1402. TERMS AND CONDITIONS OF CONTRACT.—The Secretary shall include in each contract a provision—

"(a) that any new vessel constructed under a contract will be built in a shipyard in the United States under a contract with a shipbuilder entered into after the effective date of this Act;

"(b) that any new vessel acquired under a contract will be one that was built in a shipyard in the United States for the United States Government under a contract with a shipbuilder entered into after the effective date of this Act;

"(c) that any vessel substantially reconstructed under a contract will be one that was built in a shipyard in the United States and will be substantially reconstructed in a shipyard in the United States under a contract with a shipbuilder entered into after the effective date of this Act;

"(d) that any vessel constructed, acquired, or substantially reconstructed under a contract will be of a type, size, and speed that the Secretary determines to be suitable for use on the high seas or Great Lakes;

"(e) that any vessel constructed, acquired, or substantially reconstructed under a contract negotiated under section 1 (a) will be of a type which the Secretary of the Navy certifies is suitable for economical and speedy conversion into a naval auxiliary or otherwise suitable for use by the United States in the event of war or national emergency;

"(f) for the creation and maintenance of a capital reserve fund;

"(g) for the approximate number and type of vessels which the contractor will construct, acquire, or substantially reconstruct subject to modifications and extensions upon a showing to the satisfaction of the Secretary of acceptable reasons for modifications or extensions;

"(h) for additional terms and conditions consistent with this Act, that the Secretary determines to be necessary to protect the interest of the United States;

"(i) for the early replacement of any war-built vessel used in the movement of cargo under section 901 (b), Merchant Marine Act, 1936, as amended;

"(j) that each contractor agrees not to incur any

purchase money indebtedness with respect to any vessel constructed, acquired, or substantially reconstructed under a contract without the prior consent of the Secretary;

"(k) that upon failure of the contractor to construct, acquire, or substantially reconstruct any vessel as provided in the contract as modified or extended, all deposits of the contractor will be withdrawn from the fund with the same tax consequences as result from withdrawals from the funds created by section 607, Merchant Marine Act, 1936, as amended, and no further deposits may be made by the contractor until a new contract is negotiated; and

"(l) that the contractor agrees that any vessel constructed or acquired under a contract will remain documented under the laws of the United States for twenty-five years from the date of its delivery by the shipbuilder and any vessel reconstructed under a contract will remain documented under the laws of the United States for the remainder of its economic life as determined by the Secretary.

"SEC. 1403. CREATION AND MAINTENANCE OF CAPITAL RESERVE FUND.—(a) Each contractor shall create and maintain for the duration of the contract, in depositories approved by the Secretary, a capital reserve fund under the joint control of the operator and the Secretary.

"(b) Each contractor shall deposit in the capital reserve fund as is required to be deposited by subsidized operators under section 607, Merchant Marine Act, 1936, as amended, the proceeds of sales of vessels, the proceeds of insurance and indemnities, the depreciation charges, as earned, and the earnings made on deposits in the capital reserve fund, and shall annually deposit any percentage of differential payments received on the movement of cargo under section 901 (b), Merchant Marine Act, 1936, as amended, that the Secretary determines is from profits and is necessary to fulfill the contractor's obligation under the contract.

"(c) The contractor may deposit in the fund other earnings from his vessel operations.

"Sec. 1404. Tax Deferment of Deposits in the Fund.—(a) Deposits of capital gains into the fund are taxed in the same manner as deposits of capital gains by subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"(b) Deposits of earnings and differential payments into the fund are taxed in the same manner as deposits of earnings of subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"Sec. 1405. Withdrawals From the Fund.—

Contractors may withdraw deposits from the fund with the same restriction and limitation, under the same conditions and with the same tax consequences as deposits may be withdrawn from the capital reserve fund by subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"Sec. 1406. Investment of the Fund.—Contractors may invest deposits in the fund under the conditions and with the same restriction as deposits of subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

"Sec. 1407. Discontinuance of Differential Payments.—No operator of a nonsubsidized vessel may receive any differential payments for cargo moved by such vessel under section 901 (b), Merchant Marine Act, 1936, as amended, unless the operator has concluded a contract with the Secretary under this Act before January 1, 1968.

"Sec. 1408. Definitions.—In this Act—

"(a) 'Contract' means a vessel construction, acquisition, or reconstruction contract authorized by this Act.

"(b) 'Differential payments' means the payments made by the United States Government to operators of United States-flag merchant vessels for the movement of cargo under section 901 (b), Merchant Marine Act, 1936, as amended, at rates in excess of world market rates.

"(c) 'Documented' includes enrolled.

"(d) 'Earnings from the operation of vessels' includes hire from bareboat charters.

"(e) 'Earnings made on deposits' means earnings on funds deposited as well as earnings on accumulated earnings and gains made on sale of securities.

"(f) 'Fund' means the capital reserve fund authorized by this Act.

"(g) 'Nonsubsidized vessel' means any vessel not included in an operating differential subsidy contract under the Merchant Marine Act, 1936, as amended.

"(h) 'Person' includes corporation.

"(i) 'Reconstruction' means the substantial reconstruction and major modernization of a vessel if the Secretary determines that the objectives of this Act will be promoted by such reconstruction.

"(j) 'Secretary' means the Secretary of Commerce in reference to powers and duties relating to contracts for the construction, acquisition, or substantial reconstruction of merchant vessels and means the Secretary of the Interior in reference to powers and duties relating to contracts for the construction of fishing vessels.

"(k) 'Subsidized operators' means persons who have an operating-differential subsidy contract under the Merchant Marine Act, 1936, as amended.

"(l) 'Vessel' includes non-self-propelled vessels, cargo containers, cargo vans, and other related equipment.

"(m) 'War-built vessel' means a vessel as defined in section 3, Merchant Ship Sales Act, 1946."

90TH CONGRESS
1ST SESSION

S. 2650

A BILL

To amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program.

By Mr. MAGNUSON, Mr. BARTLETT, and Mr. BREWSTER

NOVEMBER 9, 1967

Read twice and referred to the Committee on Commerce