

## Public Law 91-469

## AN ACT

To amend the Merchant Marine Act, 1936.

October 21, 1970  
[H. R. 15424]Merchant  
Marine Act of  
1970.  
49 Stat. 1985.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 101 of the Merchant Marine Act, 1936 (46 U.S.C. 1101), is amended as follows:

(1) by striking out of subdivision (a) the words "on all routes".

(2) by striking out the final "and" in subdivision (c) and changing the period at the end of subdivision (d) to a comma and inserting "and (e) supplemented by efficient facilities for shipbuilding and ship repair."

Appropriations.  
81 Stat. 193.

SEC. 2. Section 209 (b) of the Merchant Marine Act, 1936 (46 U.S.C. 1119 (b)), is amended by striking out the period at the end thereof and inserting a colon and the following: "*Provided, however,* That the Congress hereby finds and declares that the national policy set forth in section 101 of this Act requires that there should be authorized and appropriated for fiscal years 1971 through 1980 such sums as may be necessary to construct 300 ships of such sizes, types and designs as the Secretary of Commerce may consider best suited to carry out the purposes and policy of this Act."

49 Stat. 1989.

SEC. 3. Section 210 of the Merchant Marine Act, 1936 (46 U.S.C. 1120), is amended as follows:

(1) by striking out of the second paragraph the words "on all routes".

(2) by inserting a new fifth paragraph as follows:

"Fourth, the creation and maintenance of efficient shipbuilding and repair capacity in the United States with adequate numbers of skilled personnel to provide an adequate mobilization base."

Studies,  
records.

SEC. 4. Section 211 of the Merchant Marine Act, 1936 (46 U.S.C. 1121), is amended as follows:

(1) By striking the final "and" in subsection (a) and inserting a comma in lieu thereof and changing the semicolon to a comma and inserting the words "and to other national requirements;"

(2) By redesignating subsections (b), (c), (d), (e), (f), (g), (h), and (i), as subsections (c), (d), (e), (f), (g), (h), (i), and (j), respectively.

Bulk cargo  
carrying services.

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

"(b) The bulk cargo carrying services that should, for the promotion, development, expansion, and maintenance of the foreign commerce of the United States and for the national defense or other national requirements be provided by United States-flag vessels whether or not operating on particular services, routes, or lines;"

(4) Redesignated subsection (c) is amended by inserting after the word "speed," the words "method of propulsion,"

(5) Redesignated subsection (c) is amended by inserting at the end thereof, immediately before the semicolon, a comma and the words "or which should be employed to provide the bulk cargo carrying services necessary to the promotion, maintenance, and expansion of the foreign commerce of the United States and its national defense or other national requirements whether or not such vessels operate on a particular service, route, or line".

SEC. 5. Redesignated subsection (e) of section 211 of the Merchant Marine Act, 1936, is amended as follows:

(a) By striking out the words "in particular services, routes, and lines".

(b) By striking out the words "service, route, or line" and inserting in lieu thereof the word "vessel".

SEC. 6. Section 501 of the Merchant Marine Act, 1936 (46 U.S.C. 1151), is amended as follows:

(1) Subsection (a) is amended as follows:

(a) By striking out the words "Any citizen of the United States" and inserting in lieu thereof the words "Any proposed ship purchaser who is a citizen of the United States or any shipyard of the United States".

(b) By inserting in subdivision (2) after the designation (2) the words "if the applicant is the proposed ship purchaser" and a comma.

(c) By striking out of subdivision (3) the words "to replace worn-out or obsolete tonnage with new and modern ships, or otherwise".

(d) By the insertion of a new sentence at the end of subdivision (3) to read as follows: "The Secretary of Commerce may give preferred consideration to applications that will tend to reduce construction-differential subsidies and that propose the construction of ships of high transport capability and productivity."

(2) Subsection (c) is amended by inserting in the first sentence after the words "Any citizen of the United States" the words "or any shipyard of the United States".

SEC. 7. Section 502 of the Merchant Marine Act, 1936 (46 U.S.C. 1152), is amended as follows:

(1) Subsection (a) is amended as follows:

(a) By striking out of the first sentence the words ", on behalf of the applicant,".

(b) By striking out of the second sentence the words "applicant, the Commission" and inserting in lieu thereof the words "proposed ship purchaser, the Secretary of Commerce".

(c) By inserting after the second sentence the following new sentence: "Notwithstanding the provisions of the first sentence of section 505 of this Act with respect to competitive bidding, the Secretary of Commerce is authorized, at any time prior to June 30, 1973, to accept a price for the construction of the ship which has been negotiated between a shipyard and a proposed ship purchaser if (i) the negotiated price will result in a construction-differential subsidy that is equal to or less than 45 per centum in fiscal 1971, 43 per centum in fiscal 1972, and 41 per centum in fiscal 1973; (ii) the proposed ship purchaser and the shipyard submit backup cost details and evidence that the negotiated price is fair and reasonable; (iii) the Secretary of Commerce finds that the negotiated price is fair and reasonable; and (iv) the shipyard agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment have access to and the right to examine any pertinent books, documents, papers, and records of the shipyard or any of its subcontractors related to the negotiation or performance of any contract or subcontract negotiated under this subsection and will include in its subcontracts a provision to that effect."

(d) By striking out of the last sentence the words "with the applicant for the purchase by him" and inserting in lieu thereof the words "for the sale" immediately prior to the words "of such vessel" and by inserting after the words "upon its completion," the words "to the applicant if he is the proposed ship purchaser and if not to another citizen of the United States, if the Secretary of Commerce determines that such citizen possesses the ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain the vessel".

Construction-  
differential subsidy.  
49 Stat. 1995;  
66 Stat. 760.

Post, p. 1022.

Records avail-  
ability.

76 Stat. 1200;  
83 Stat. 44.  
46 USC 1152.

Foreign cost,  
annual computa-  
tion, publication.

Post, p. 1022.

Construction-  
differential,  
limitation.

52 Stat. 956.  
46 USC 1152.

(2) Subsection (b) is amended as follows:

(a) By striking out of the first sentence the word "may" and inserting in lieu thereof the word "shall".

(b) By striking out of the first sentence the words "the construction of the proposed vessel", and inserting in lieu thereof the words "the construction of that type vessel".

(c) By inserting after the first sentence of subsection (b) the following: "The Secretary of Commerce shall recompute such estimated foreign cost annually unless, in the opinion of the Secretary, there has been a significant change in shipbuilding market conditions. The Secretary shall publish notice of his intention to compute or recompute such estimated foreign cost and shall give interested persons, including but not limited to shipyards and shipowners and associations thereof, an opportunity to file written statements. The Secretary's consideration shall include, but not be limited to, all relevant matter so filed, and his determination shall include or be accompanied by a concise explanation of the basis of his determination."

(d) By striking out of the next to the last sentence the words "in any case exceeds the foregoing applicable percentage of such cost" and inserting in lieu thereof the words "exceeds the following percentages: in fiscal year 1971, 45 per centum; in fiscal year 1972, 43 per centum; in fiscal year 1973, 41 per centum; in fiscal year 1974, 39 per centum; in fiscal year 1975, 37 per centum; in fiscal year 1976 and thereafter, 35 per centum,".

(e) By inserting in the next to the last sentence after the words "the Secretary may negotiate" the words "with any bidder, whether or not such bidder is the lowest bidder" and a comma; by striking out the words "on behalf of the applicant" and inserting in lieu thereof the words "with such bidder, notwithstanding the provisions of the first sentence of section 505 with respect to competitive bidding,"; and by inserting before the words "or less" at the end of the sentence a comma and the words "or as close thereto as possible,".

(f) By inserting after the next to the last sentence the following new sentence: "Commencing with the fiscal year 1972 no construction contract requiring a construction-differential in excess of the applicable percentages set forth in the preceding sentence shall be entered into unless the Secretary shall have given due consideration to the likelihood that the above percentages will not be attained and that the commitment to the ship construction program may not be continued. If the Secretary of Commerce enters into such a contract, he shall notify the Commission on American Shipbuilding of such contract and the Commission on American Shipbuilding shall, not later than six months after such notification, submit its report on the American shipbuilding industry."

(3) Subsection (c) is amended as follows:

(a) By inserting after the third word the words "of sale".

(b) By striking out the word "applicant" wherever it appears, and inserting in lieu thereof the word "purchaser".

(c) By striking out of the third sentence the words "at the rate of 3½ per centum per annum".

(d) By striking out of the third sentence the words "applicant's purchase" and inserting in lieu thereof the words "purchaser's portion of the".

(e) By striking out of the third sentence the word "applicant's" and inserting in lieu thereof the word "purchaser's".

(f) By inserting in the third sentence, immediately before the period at the end thereof, the words "at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into considera-

tion the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs".

(g) By striking out of the last sentence the words "of 3½ per centum per annum" and inserting in lieu thereof the words "per annum applicable to payments that are chargeable to the purchaser's portion of the price of the vessel".

(4) Subsection (e) is amended as follows:

(a) By striking out of the first sentence the words "the applicant" and inserting in lieu thereof the words "a citizen of the United States".

(b) By striking out of the third sentence the words "an applicant" and inserting in lieu thereof the words "a citizen of the United States".

(5) Subsection (f) is amended as follows:

(a) By striking out the words "title VII and section 509, and the Federal Maritime Board, in connection with ship construction, reconstruction, or reconditioning under title V (except section 509)," in the second sentence and inserting in lieu thereof "titles V and VII,".

(b) By striking out the words "in such manner as it may be determined" in the second sentence and inserting in lieu thereof "in such manner as he may determine".

(c) By striking out the word "applicant" wherever it appears and inserting in lieu thereof the word "purchaser".

(d) By striking out of the fourth sentence of the second paragraph the words "on any" and inserting in lieu thereof the words "in an".

(e) By striking out of the fourth sentence of the second paragraph the words "of the operator".

(6) Subsection (g) is amended as follows:

(a) By striking out of the first sentence the word "agreement" and inserting in lieu thereof the word "application".

(b) By striking out of the first sentence the words "an applicant under this title" and inserting in lieu thereof the words "any citizen of the United States".

SEC. 8. Section 503 of the Merchant Marine Act, 1936 (46 U.S.C. 1153), is amended as follows:

(1) By striking out the word "applicant" wherever it appears and inserting in lieu thereof the word "purchaser".

(2) By striking out of the first sentence the words "purchase between the applicant and the Commission" and inserting in lieu thereof the words "sale between the purchaser and the Secretary of Commerce".

SEC. 9. Section 504 of the Merchant Marine Act, 1936 (46 U.S.C. 1154), is amended as follows:

(1) By striking out the first three sentences.

(2) By inserting, after the section number, a new sentence to read as follows:

"If a qualified purchaser under the terms of this title desires to purchase a vessel to be constructed in accordance with an application for construction-differential subsidy under this title, the Secretary of Commerce may, in lieu of contracting to pay the entire cost of the vessel under section 502, contract to pay only construction-differential subsidy and the cost of national defense features to the shipyard constructing such vessel. The construction-differential subsidy and payments for the cost of national defense features shall be based upon the lowest responsible domestic bid unless the vessel is constructed at a negotiated price as provided by section 502(a) or under a contract negotiated by the Secretary of Commerce as provided in section

49 Stat. 1997.  
46 USC 1152.

70 Stat. 657;  
78 Stat. 385.  
46 USC 1191,  
1159.

46 USC 1151.

52 Stat. 957;  
74 Stat. 216.

66 Stat. 761.

52 Stat. 958.

*Ante*, p. 1019.

*Ante*, p. 1020.

502(b) in which event the construction-differential subsidy and payments for the cost of national defense features shall be based upon such negotiated price."

49 Stat. 1998.

SEC. 10. Section 505 of the Merchant Marine Act, 1936 (46 U.S.C. 1155), is amended as follows:

(1) Subsection (a) is amended as follows:

(a) By striking out the designation "(a)".

(b) By striking out of the first sentence the words "within the continental limits".

(c) By striking out of the first sentence the words "the applicant to reject, and in".

Use of American materials, waiver.

(d) By inserting immediately before the period at the end of the second sentence the following: "; *Provided, however,* That with respect to other than major components of the hull, superstructure, and any material used in the construction thereof, (1) if the Secretary of Commerce determines that the requirements of this sentence will unreasonably delay completion of any vessel beyond its contract delivery date, and (2) if such determination includes or is accompanied by a concise explanation of the basis therefor, then the Secretary of Commerce may waive such requirements to the extent necessary to prevent such delay."

(e) By striking out the last sentence and inserting in lieu thereof the following sentence: "For the purposes of this title V, the term 'shipyard of the United States' means shipyards within any of the United States and the Commonwealth of Puerto Rico."

(2) By striking out subsections (b), (c), (d), and (e).

46 USC 1151.

"Shipyard of the U.S."

66 Stat. 761;

81 Stat. 660.

46 USC 1159 and note.

SEC. 11. Section 509 of the Merchant Marine Act, 1936 is amended as follows:

(a) By striking out the word "Commission" wherever it appears and inserting in lieu thereof the words "Secretary of Commerce".

(b) By striking out the word "applicant" wherever it appears and inserting in lieu thereof the word "purchaser".

(c) By striking out the words "at 3½ per centum per annum," and inserting in lieu thereof, the words "at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs, the balance of such purchase price being".

53 Stat. 1183.

SEC. 12. (a) Section 510(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(a)), is amended as follows:

(1) By striking out of paragraph (1) all of subdivision (B) other than the final word "and", and inserting in lieu thereof the words "in the judgment of the Secretary of Commerce, should, by reason of age, obsolescence, or otherwise, be replaced in the public interest".

(2) By striking out of subdivision (C) of paragraph (1) the words "is owned" and inserting in lieu thereof the words "has been owned".

(3) By striking out of subdivision (C) of paragraph (1) the words "and has been owned by such citizen or citizens".

(4) By striking out of paragraph (1) the proviso in its entirety.

75 Stat. 833.

(b) Section 510(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(b)), is amended by striking out of the next to the last sentence the words "capital reserve fund" and inserting in lieu thereof the words "capital construction fund".

SEC. 13. Section 510(i) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(i)), is amended as follows:

74 Stat. 312;  
79 Stat. 980.

(1) By striking out of the first paragraph the year "1970" and inserting in lieu thereof the year "1972".

(2) By striking out of the first paragraph the words "which were constructed or contracted for by the United States shipyards before September 3, 1945," and inserting in lieu thereof the words "which were constructed in the United States,".

(3) By striking out of the first paragraph the words "war-built vessels (which are defined for purposes of this subsection as)".

(4) By striking out of the first paragraph the words "which were constructed or contracted for by the United States shipyards during the period beginning September 3, 1939, and ending September 2, 1945)".

SEC. 14. Section 601(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1171(a)), is amended as follows:

(1) By inserting after the first sentence a new sentence to read as follows: "In this title VI the term 'essential service' means the operation of a vessel on a service, route, or line described in section 211(a) or in bulk cargo carrying service described in section 211(b)."

(2) By striking out of subdivision (1) the words "such service, route, or line" and inserting in lieu thereof the words "an essential service".

(3) By striking from subdivision (2) the words "and maintain the service, route, or line" and inserting in lieu thereof the words "in an essential service".

SEC. 15. Section 603(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1173(a)), is amended by striking out the words "such service, route, or line," and inserting in lieu thereof the words "an essential service".

SEC. 16. Section 603(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1173(b)), is amended as follows:

(1) By striking out the words "Such contract shall provide that the amount of the operating-differential subsidy for the operation of vessels on a service, route, or line shall not exceed the excess of" and inserting in lieu thereof the words "Such contract shall provide, except as the parties should agree upon a lesser amount, that the amount of the operating-differential subsidy for the operation of vessels in an essential service shall equal the excess of the subsidizable wage costs of the United States officers and crews,".

(2) By inserting in the first sentence after the words "cost of insurance," the words "subsistence of officers and crews on passenger vessels, as defined in section 613 of this Act,".

(3) By striking out of the first sentence the words "maintenance, repairs not compensated by insurance," and inserting in lieu thereof "maintenance, and repairs not compensated by insurance".

(4) By striking out of the first sentence the words "wages and subsistence of officers and crews, and any other items of expense in which the Commission shall find and determine that the applicant is at a substantial disadvantage in competition with vessels of the foreign country hereinafter referred to," and inserting in lieu thereof "incurred".

(5) By inserting before the period at the end of the first sentence a colon and a proviso to read as follows: "Provided, however, That the Secretary of Commerce may, with respect to any vessel in an essential bulk cargo carrying service as described in section 211(b), pay, in lieu of the operating-differential subsidy provided by this subsection (b), such sums as he shall determine to be necessary to make the cost of operating such vessel competitive with the cost of operating similar vessels under the registry of a foreign country".

49 Stat. 2001;  
75 Stat. 90.

"Essential  
service."  
49 Stat. 1989.  
Ante, p. 1018.

75 Stat. 89.  
46 USC 1183.

49 Stat. 2002;  
75 Stat. 513.

"Collective  
bargaining  
costs."

75 Stat. 89.  
46 USC 1183.

"Base period  
costs."

Post, p. 1025.

"Base period."

"Subsidizable  
wage costs of  
U.S. officers  
and crews."

SEC. 17. Section 603(c) of the Merchant Marine Act, 1936 (46 U.S.C. 1173(c)), is amended as follows:

(1) By redesignating the subsection as subsection (f) and inserting new subsections (c), (d), and (e) as follows:

"(c) (1) When used in this section—

"(A) The term 'collective bargaining costs' means the annual cost, calculated on the basis of the per diem rate of expense as of any date, of all items of expense required of the applicant through collective bargaining or other agreement, covering the employment of United States officers and crew of a vessel, including payments required by law to assure old-age pensions, unemployment benefits, or similar benefits and taxes or other governmental assessments on crew payrolls, but excluding subsistence of officers and crews on vessels other than passenger vessels as defined in section 613 of this Act and costs relating to:

"(i) the officers or members of the crew that the Secretary of Commerce has found, prior to the award of a contract for the construction or reconstruction of a vessel, to be unnecessary for the efficient and economical operation of such vessel: *Provided*, That the Secretary of Commerce shall afford representatives of the collective-bargaining unit or units responsible for the manning of the vessel an opportunity to comment on such finding prior to the effective date of such finding: *And provided further*, That in determining whether officers or members of the crew are necessary for the efficient and economical operation of such vessel, the Secretary of Commerce shall give due consideration to, but shall not be bound by, wage and manning scales and working conditions required by a bona fide collective-bargaining agreement, or

"(ii) those officers or members of the crew that the Secretary of Commerce has found, prior to ninety days following the date of enactment of this subsection, to be unnecessary for the efficient and economical operation of the vessel.

"(B) The term 'base period costs' means for the base period beginning July 1, 1970, and ending June 30, 1971, the collective-bargaining costs as of January 1, 1971, less all other items of cost that have been disallowed by the Secretary of Commerce prior to ninety days following the date of enactment of this subsection, and not already excluded from collective-bargaining costs under subparagraph (A) (i) or (A) (ii) of this subsection. In any subsequent base period the term 'base period costs' means the average of the subsidizable wage cost of United States officers and crews for the preceding annual period ending June 30 (calculated without regard to the limitation of the last sentence of paragraph (D) of this subdivision but increased or decreased by the increase or decrease in the index described in subdivision (3) of this subsection from January 1 of such annual period to January 1 of the base period), and the collective-bargaining costs as of January 1 of the base period: *Provided*, That in no event shall the base period cost be such that the difference between the base period cost and the collective-bargaining costs as of January 1 of any base period subsequent to the first base period exceeds five-fourths of 1 per centum of the collective-bargaining costs as of such January 1 multiplied by the number of years that have elapsed since the most recent base period.

"(C) The term 'base period' means any annual period beginning July 1, and ending June 30 with respect to which a base period cost is established.

"(D) The term 'subsidizable wage costs of United States officers and crews' in any period other than a base period means the most recent base period costs increased or decreased by the increase or decrease

from January 1 of such base period to January 1 of such period in the index described in subdivision (3) hereof, and with respect to a base period means the base period cost. The subsidizable wage costs of United States officers and crews in any period other than a base period shall not be less than 90 per centum of the collective-bargaining costs as of January 1 of such period nor greater than 110 per centum of such collective-bargaining costs.

"(2) The Secretary of Commerce shall determine the collective-bargaining costs on ships in subsidized operation as of January 1, 1971, and as of each January 1 thereafter, and shall as of intervals of not less than two years nor more than four years, establish a new base period cost, except that the Secretary shall not establish a new base period unless he announces his intention to do so prior to the December 31 that would be included in the new base period.

"(3) The Bureau of Labor Statistics shall compile the index referred to in subdivision (1). Such index shall consist of the average annual change in wages and benefits placed into effect for employees covered by collective-bargaining agreements with equal weight to be given to changes affecting employees in the transportation industry (excluding the offshore maritime industry) and to changes affecting employees in private nonagricultural industries other than transportation. Such index shall be based on the materials regularly used by the Bureau of Labor Statistics in compiling its regularly published statistical series on wage and benefit changes arrived at through collective bargaining. Such materials shall remain confidential and not be subject to disclosure.

Wage change  
index.

"(d) Each foreign wage cost computation shall be made after an opportunity is given to the contractor to submit in writing and in timely fashion all relevant data within his possession. In making the computation, the Secretary shall consider all relevant matter so presented and all foreign wage cost data collected at his request or on his behalf. Such foreign cost data shall be made available to an interested contractor, unless the Secretary shall find that disclosure of the data will prevent him from obtaining such data in the future. In determining foreign manning for purposes of this section, the foreign manning determined for any ship type with respect to any base period shall not be redetermined until the beginning of a new base period.

Foreign wage  
computation.

"(e) The wage subsidy shall be payable monthly for the voyages completed during the month, upon the contractor's certification that the subsidized vessels were in authorized service during the month. The Secretary of Commerce shall prescribe procedures for the calculation and payment of subsidy on items of expense which are included in 'collective-bargaining costs' but are not included in the daily rate because they are unpredictably timed."

(2) Redesignated subsection (f) is amended to read as follows:

"(f) Ninety percent of the amount of the insurance and maintenance and repair and subsistence of officers and crews subsidy shall be payable monthly for the voyages completed during the month on the basis of the subsidy estimated to have accrued with respect to such voyages. Any such payment shall be made only after there has been furnished to the Secretary of Commerce such security as he deems to be reasonable and necessary to assure refund of any overpayment. The contractor and the Secretary of Commerce shall audit the voyage accounts as soon as practicable after such payment. The remaining 10 percent of such subsidy shall be payable after such audit."

SEC. 18. Section 605(b) is amended by striking out the words "except one whose life expectancy has been determined as provided in section 607(b) for a period in no case to exceed the life expectancy

66 Stat. 764;  
79 Stat. 1310.  
46 USC 1175.  
Post, p. 1027.

determined thereunder, unless the Commission" and inserting in lieu thereof "unless the Secretary of Commerce".

49 Stat. 2003.

SEC. 19. Section 605(c) of the Merchant Marine Act, 1936 (46 U.S.C. 1175(c)), is amended as follows:

(1) By striking out of the first sentence the words "on a service, route, or line" and inserting in lieu thereof the words "in an essential service".

(2) By striking out of the first sentence the words "in such service, route, or line".

(3) By striking out of the first sentence the words "a service, route, or line" and inserting in lieu thereof the words "an essential service".

(4) By striking out of the first sentence the words "competitive services, routes, or lines," and inserting in lieu thereof the words "such essential service".

(5) By striking in the first sentence the words "line serving the route," and inserting in lieu thereof the words "operator serving such essential service,".

70 Stat. 148;  
75 Stat. 91.

SEC. 20. Section 606 of the Merchant Marine Act, 1936 (46 U.S.C. 1176), is amended as follows:

(1) By striking out of subdivision (3) the words "the service, route, or line" and inserting in lieu thereof the words "an essential service".

(2) By striking out of subdivision (4) the words "on such service, route, or line" and inserting in lieu thereof the words, "in such an essential service,".

(3) By striking out of subdivision (4) the words "service, route, or line", wherever they appear, and inserting in lieu thereof the words "essential service".

(4) By striking out subdivision (5) in its entirety.

(5) By redesignating subdivision (6) as subdivision (5).

(6) By striking out of redesignated subdivision (5) the words "the vessel's services, routes, and lines" and inserting in lieu thereof the words "essential services".

(7) By striking out of redesignated subdivision (5) the word "cruises" and inserting in lieu thereof the word "services".

(8) By striking out of redesignated subdivision (5) the words "the most" and inserting in lieu thereof the word "an".

46 USC 1131,  
1132.

(9) By striking out of redesignated subdivision (5) the words "but with due regard to the wage and manning scales and working conditions prescribed by the Commission as provided in title III".

(10) By redesignating subdivision (7) as subdivision (6).

(11) By striking out of redesignated subdivision (6) the words "the operator shall use" and inserting in lieu thereof the words "an operator who receives subsidy with respect to subsistence of officers and crews shall use as such subsistence items"; by striking out "505 (a)" and inserting in lieu thereof "505"; by striking out of that subdivision the words "and equipment"; by striking out of that subdivision the words "and the operator shall perform repairs to subsidized vessels within the continental limits of the United States," and inserting in lieu thereof the words "and an operator who receives subsidy with respect to repairs shall perform such repairs within any of the United States or the Commonwealth of Puerto Rico,"; and by striking the last sentence thereof.

49 Stat. 2005;  
52 Stat. 960.

SEC. 21. (a) Section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), is amended to read as follows:

"SEC. 607. (a) Agreement Rules.

"Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)) may enter into an

agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels. Any agreement entered into under this section shall be for the purpose of providing replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f). The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b) (1) (A)) which is attributable to the operation of the agreement vessels.

Capital construction fund.

“(b) Ceiling on Deposits.

“(1) The amount deposited under subsection (a) in the fund for any taxable year shall not exceed the sum of:

“(A) that portion of the taxable income of the owner or lessee for such year (computed as provided in chapter 1 of the Internal Revenue Code of 1954 but without regard to the carryback of any net operating loss or net capital loss and without regard to this section) which is attributable to the operation of the agreement vessels in the foreign or domestic commerce of the United States or in the fisheries of the United States,

26 USC 1 et seq.

“(B) the amount allowable as a deduction under section 167 of the Internal Revenue Code of 1954 for such year with respect to the agreement vessels,

68A Stat. 51;  
83 Stat. 625, 649.  
26 USC 167.

“(C) if the transaction is not taken into account for purposes of subparagraph (A), the net proceeds (as defined in joint regulations) from (i) the sale or other disposition of any agreement vessel, or (ii) insurance or indemnity attributable to any agreement vessel, and

“(D) the receipts from the investment or reinvestment of amounts held in such fund.

“(2) In the case of a lessee, the maximum amount which may be deposited with respect to an agreement vessel by reason of paragraph (1) (B) for any period shall be reduced by any amount which, under an agreement entered into under this section, the owner is required or permitted to deposit for such period with respect to such vessel by reason of paragraph (1) (B).

“(3) For purposes of paragraph (1), the term ‘agreement vessel’ includes barges and containers which are part of the complement of such vessel and which are provided for in the agreement.

“Agreement vessel.”

“(c) Requirements as to Investments.

“Amounts in any fund established under this section shall be kept in the depository or depositories specified in the agreement and shall be subject to such trustee and other fiduciary requirements as may be specified by the Secretary of Commerce. They may be invested only in interest-bearing securities approved by the Secretary of Commerce; except that, if the Secretary of Commerce consents thereto, an agreed percentage (not in excess of 60 percent) of the assets of the fund may be invested in the stock of domestic corporations. Such stock must be

currently fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange, and must be stock which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital. If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in such a way as to tend to restore the fund to a situation in which the fair market value of the stock does not exceed such agreed percentage. For purposes of this subsection, if the common stock of a corporation meets the requirements of this subsection and if the preferred stock of such corporation would meet such requirements but for the fact that it cannot be listed and registered as required because it is nonvoting stock, such preferred stock shall be treated as meeting the requirements of this subsection.

“(d) Nontaxability for Deposits.

“(1) For purposes of the Internal Revenue Code of 1954—

“(A) taxable income (determined without regard to this section) for the taxable year shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in subsection (b) (1) (A),

“(B) gain from a transaction referred to in subsection (b) (1) (C) shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from such transaction is deposited in the fund,

“(C) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account,

“(D) the earnings and profits of any corporation (within the meaning of section 316 of such Code) shall be determined without regard to this section, and

“(E) in applying the tax imposed by section 531 of such Code (relating to the accumulated earnings tax), amounts while held in the fund shall not be taken into account.

“(2) Paragraph (1) shall apply with respect to any amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in joint regulations.

“(e) Establishment of Accounts.

“For purposes of this section—

“(1) Within the fund established pursuant to this section three accounts shall be maintained:

“(A) the capital account,

“(B) the capital gain account, and

“(C) the ordinary income account.

“(2) The capital account shall consist of—

“(A) amounts referred to in subsection (b) (1) (B),

“(B) amounts referred to in subsection (b) (1) (C) other than that portion thereof which represents gain not taken into account by reason of subsection (d) (1) (B),

“(C) 85 percent of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (d) (1) (C)) be allowed a deduction under section 243 of the Internal Revenue Code of 1954, and

“(D) interest income exempt from taxation under section 103 of such Code.

“(3) The capital gain account shall consist of—

26 USC 1  
et seq.

68A Stat. 98.  
26 USC 316.

68A Stat. 179.  
26 USC 531.

78 Stat. 52.  
26 USC 243.

26 USC 103.

“(A) amounts representing capital gains on assets held for more than 6 months and referred to in subsection (b) (1) (C) or (b) (1) (D) reduced by

“(B) amounts representing capital losses on assets held in the fund for more than 6 months.

“(4) The ordinary income account shall consist of—

“(A) amounts referred to in subsection (b) (1) (A),

“(B) (i) amounts representing capital gains on assets held for 6 months or less and referred to in subsection (b) (1) (C) or (b) (1) (D), reduced by—

“(ii) amounts representing capital losses on assets held in the fund for 6 months or less,

“(C) interest (not including any tax-exempt interest referred to in paragraph (2) (D)) and other ordinary income (not including any dividend referred to in subparagraph (E)) received on assets held in the fund,

“(D) ordinary income from a transaction described in subsection (b) (1) (C), and

“(E) 15 percent of any dividend referred to in paragraph (2) (C).

“(5) Except on termination of a fund, capital losses referred to in paragraph (3) (B) or in paragraph (4) (B) (ii) shall be allowed only as an offset to gains referred to in paragraph (3) (A) or (4) (B) (i), respectively.

“(f) Purposes of Qualified Withdrawals.

“(1) A qualified withdrawal from the fund is one made in accordance with the terms of the agreement but only if it is for:

“(A) the acquisition, construction, or reconstruction of a qualified vessel,

“(B) the acquisition, construction, or reconstruction of barges and containers which are part of the complement of a qualified vessel, or

“(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction or reconstruction of a qualified vessel or a barge or container which is part of the complement of a qualified vessel.

Except to the extent provided in regulations prescribed by the Secretary of Commerce, subparagraph (B), and so much of subparagraph (C) as relates only to barges and containers, shall apply only with respect to barges and containers constructed in the United States.

“(2) Under joint regulations, if the Secretary of Commerce determines that any substantial obligation under any agreement is not being fulfilled, he may, after notice and opportunity for hearing to the person maintaining the fund, treat the entire fund or any portion thereof as an amount withdrawn from the fund in a nonqualified withdrawal.

“(g) Tax Treatment of Qualified Withdrawals.

“(1) Any qualified withdrawal from a fund shall be treated—

“(A) first as made out of the capital account,

“(B) second as made out of the capital gain account, and

“(C) third as made out of the ordinary income account.

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

“(3) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the capital gain account, the basis of such

vessel, barge, or container shall be reduced by an amount equal to—

“(A) Five-eighths of such portion, in the case of a corporation (other than an electing small business corporation, as defined in section 1371 of the Internal Revenue Code of 1954), or

“(B) One-half of such portion, in the case of any other person.

“(4) If any portion of a qualified withdrawal to pay the principal on any indebtedness is made out of the ordinary income account or the capital gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.

“(5) If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (h) (3) (A) which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in joint regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under joint regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

“(h) Tax Treatment of Nonqualified Withdrawals.

“(1) Except as provided in subsection (i), any withdrawal from a fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

“(2) Any nonqualified withdrawal from a fund shall be treated—

“(A) first as made out of the ordinary income account,

“(B) second as made out of the capital gain account, and

“(C) third as made out of the capital account.

For purposes of this section, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that (i) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced ship design, machinery and equipment, and (ii) any amount treated as a nonqualified withdrawal under the second sentence of subsection (g) (4), shall be treated as withdrawn on a last-in-first-out basis.

“(3) For purposes of the Internal Revenue Code of 1954—

“(A) any amount referred to in paragraph (2) (A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made,

“(B) any amount referred to in paragraph (2) (B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 6 months, and

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

“(i) no interest shall be payable under section 6601 of such Code and no addition to the tax shall be payable under section 6651 of such Code,

“(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph

72 Stat. 1650.  
26 USC 1371.

68A Stat. 817.  
26 USC 6601.

83 Stat. 727.  
26 USC 6651.

(4) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

“(iii) no interest shall be payable on amounts referred to in clauses (i) and (ii) of paragraph (2) or in the case of any nonqualified withdrawal arising from the application of the recapture provision of section 606(5) of the Merchant Marine Act of 1936 as in effect on December 31, 1969.

“(4) For purposes of paragraph (3) (C) (ii), the applicable rate of interest for any nonqualified withdrawal—

“(A) made in a taxable year beginning in 1970 or 1971 is 8 percent, or

“(B) made in a taxable year beginning after 1971, shall be determined and published jointly by the Secretary of the Treasury and the Secretary of Commerce and shall bear a relationship to 8 percent which the Secretaries determine under joint regulations to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1970.

“(i) Certain Corporate Reorganizations and Changes in Partnerships.

“Under joint regulations—

“(1) a transfer of a fund from one person to another person in a transaction to which section 381 of the Internal Revenue Code of 1954 applies may be treated as if such transaction did not constitute a nonqualified withdrawal, and

“(2) a similar rule shall be applied in the case of a continuation of a partnership (within the meaning of subchapter K of such Code).

68A Stat. 124.  
26 USC 381.

26 USC 701.

“(j) Treatment of Existing Funds.

“(1) Any person who was maintaining a fund or funds (hereinafter in this subsection referred to as ‘old fund’) under this section (as in effect before the enactment of this subsection) may elect to continue such old fund but—

“(A) may not hold moneys in the old fund beyond the expiration date provided in the agreement under which such old fund is maintained (determined without regard to any extension or renewal entered into after April 14, 1970),

“(B) may not simultaneously maintain such old fund and a new fund established under this section, and

“(C) if he enters into an agreement under this section to establish a new fund, may agree to the extension of such agreement to some or all of the amounts in the old fund.

“(2) In the case of any extension of an agreement pursuant to paragraph (1) (C), each item in the old fund to be transferred shall be transferred in a nontaxable transaction to the appropriate account in the new fund established under this section. For purposes of subsection (h) (3) (C), the date of the deposit of any item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is the later.

“(k) Definitions.

“For purposes of this section—

“(1) The term ‘eligible vessel’ means any vessel—

“(A) constructed in the United States and, if reconstructed, reconstructed in the United States,

“(B) documented under the laws of the United States, and

“(C) operated in the foreign or domestic commerce of the United States or in the fisheries of the United States.

“Eligible  
vessel.”

Any vessel which (i) was constructed outside of the United States but documented under the laws of the United States on April 15, 1970, or (ii) constructed outside the United States for use in the United States foreign trade pursuant to a contract entered into before April 15, 1970, shall be treated as satisfying the requirements of subparagraph (A) of this paragraph and the requirements of subparagraph (A) of paragraph (2).

"Qualified vessel."

"(2) The term 'qualified vessel' means any vessel—

"(A) constructed in the United States and, if reconstructed, reconstructed in the United States,

"(B) documented under the laws of the United States, and

"(C) which the person maintaining the fund agrees with the Secretary of Commerce will be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

"Agreement vessel."

"(3) The term 'agreement vessel' means any eligible vessel or qualified vessel which is subject to an agreement entered into under this section.

"United States."

"(4) The term 'United States', when used in a geographical sense, means the continental United States including Alaska, Hawaii, and Puerto Rico.

"United States foreign trade."

"(5) The term 'United States foreign trade' includes (but is not limited to) those areas in domestic trade in which a vessel built with construction-differential subsidy is permitted to operate under the first sentence of section 506 of this Act.

52 Stat. 958.  
46 USC 1156.  
"Joint regulations."

"(6) The term 'joint regulations' means regulations prescribed under subsection (1).

"Vessel."

"(7) The term 'vessel' includes cargo handling equipment which the Secretary of Commerce determines is intended for use primarily on the vessel. The term 'vessel' also includes an ocean-going towing vessel or an ocean-going barge or comparable towing vessel or barge operated on the Great Lakes.

"Noncontiguous trade."

"(8) The term 'noncontiguous trade' means (i) trade between the contiguous forty-eight States on the one hand and Alaska, Hawaii, Puerto Rico and the insular territories and possessions of the United States on the other hand, and (ii) trade between Alaska, Hawaii, and Puerto Rico and such territories and possessions and (iii) trade between the islands of Hawaii.

"(1) Records; Reports; Changes in Regulations.

"Each person maintaining a fund under this section shall keep such records and shall make such reports as the Secretary of Commerce or the Secretary of the Treasury shall require. The Secretary of the Treasury and the Secretary of Commerce shall jointly prescribe all rules and regulations, not inconsistent with the foregoing provisions of this section, as may be necessary or appropriate to the determination of tax liability under this section. If, after an agreement has been entered into under this section, a change is made either in the joint regulations or in the regulations prescribed by the Secretary of Commerce under this section which could have a substantial effect on the rights or obligations of any person maintaining a fund under this section, such person may terminate such agreement."

Effective date.

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

53 Stat. 1186.  
46 USC 1204.

SEC. 22. Section 714 of the Merchant Marine Act, 1936 is amended as follows:

(a) By striking out the words "Commission" and "Commission's" wherever they appear and inserting in lieu thereof the words "Secretary of Commerce" and "Secretary of Commerce's" respectively.

(b) By striking out in the first sentence the words "3½ per centum of the depreciated foreign cost computed annually upon the basis of a twenty-five year life of the vessel." and inserting in lieu thereof "an amount equal to (i) the sum of a percentage of the depreciated foreign cost computed annually upon the basis of a twenty-five year life of the vessel determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the term of the charter, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs."

(c) By striking out of the last sentence of the first paragraph thereof the words "of 3½ per centum per annum from the date of purchase." and inserting in lieu thereof, "from the date of purchase, at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs."

SEC. 23. Section 803 of the Merchant Marine Act, 1936 (46 U.S.C. 1221), is amended by striking out the section in its entirety.

49 Stat. 2012;  
52 Stat. 963.

SEC. 24. Section 804 of the Merchant Marine Act, 1936 (46 U.S.C. 1222), is amended to read as follows:

"SEC. 804. (a) Except as provided in subsections (b) and (c) of this section, it shall be unlawful for any contractor receiving an operating-differential subsidy under title VI or for any charterer of vessels under title VII of this Act, or any holding company, subsidiary, affiliate, or associate of such contractor or such charterer, or any officer, director, agent, or executive thereof, directly or indirectly to own, charter, act as agent or broker for, or operate any foreign-flag vessel which competes with any American-flag service determined by the Secretary of Commerce to be essential as provided in section 211 of this Act.

46 USC 1171.  
46 USC 1191.

"(b) Under special circumstances and for good cause shown, the Secretary of Commerce may, in his discretion, waive the provisions of subsection (a) of this section as to any contractor, for a specific period of time.

Ante, p. 1018.

"(c) Upon application to the Secretary of Commerce the provisions of subsection (a) of this section shall not apply to the following specified activities of any contractor under title VI, or those in the foregoing specified relationship to him, who was not such a contractor on April 15, 1970, and who shall have complied with the requirement set forth in subsection (d) of this section:

"(1) Until April 15, 1990—

"(A) the continued ownership, charter, or operation of a foreign-flag vessel engaged in the carriage of dry or liquid cargoes in bulk which was owned, chartered, or operated by such contractor, or those in the foregoing specified relationship to him, on April 15, 1970;

"(B) the continued acting as agent or broker for a vessel described in subsection (c)(1)(A) of this section which is owned, chartered, or operated by such contractor, or those in the foregoing specified relationship to him, and for which

such contractor, or those in the foregoing specified relationship to him, were acting as agent or broker on April 15, 1970;

“(2) Until April 15, 1972, the continued acting as agent or broker for a foreign-flag vessel engaged in the carriage of dry or liquid cargoes in bulk (other than one described in subsection (c)(1)(A)), for which the contractor, or those in the foregoing specified relationship to him, were acting as agent or broker on April 15, 1970.

46 USC 1171.

“(d) No contractor under title VI, whether he shall have become such a contractor before or after the date of enactment of this section, shall avail himself of the provisions of subsection (c) of this section unless not later than ninety days after the enactment of this section there shall have been filed with the Secretary of Commerce a full and complete statement, satisfactory in form and substance to the Secretary, of all foreign-flag vessels which he, or those in the foregoing specified relationship to him, directly or indirectly owned, chartered, acted as agent or broker for, or operated on April 15, 1970.

49 Stat. 1985.

46 USC 1101.

“(e) During the period of time provided for in subsection (c) of this section, the Secretary of Commerce shall, at the beginning of each regular session, make a report to the Congress on the activities of contractors under such subsection, including but not limited to, the nature and extent of such activities; its effect, if any, upon carrying forward the national policy declared in section 101 of this Act; and the Secretary's recommendations for legislation, if such is deemed to be necessary.”

66 Stat. 765.

SEC. 25. Section 805 of the Merchant Marine Act, 1936 (46 U.S.C. 1223), is amended by striking out subsection (c) thereof.

49 Stat. 2015.

SEC. 26. (a) Section 809 of the Merchant Marine Act, 1936 (46 U.S.C. 1213) is amended by inserting after the comma following the word “Gulf” the words “Great Lakes” and a comma.

(b) Section 605(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1175), is amended by deleting from the last sentence thereof the words “on the Great Lakes or”.

68 Stat. 832;  
75 Stat. 565.

SEC. 27. Section 901 of the Merchant Marine Act, 1936 (46 U.S.C. 1241) is amended as follows:

(a) By redesignating subsection (b) as subsection (b)(1).

(b) By striking the words “section 901(b)” in redesignated subsection (b)(1) and inserting in lieu thereof the words “section 901(b)(1)”.

(c) By adding a new subsection (b)(2) to read as follows:

“(2) Every department or agency having responsibility under this subsection shall administer its programs with respect to this subsection under regulations issued by the Secretary of Commerce. The Secretary of Commerce shall review such administration and shall annually report to the Congress with respect thereto.”

52 Stat. 964.

46 USC 1151.

SEC. 28. Section 905(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1244(a)), is amended by striking the period at the end thereof, substituting a comma therefor, and adding the words “except that in the context of title V of this Act concerning construction-differential subsidy, the said words ‘foreign commerce’ or ‘foreign trade’ shall to the extent provided in uniform regulations promulgated by the Secretary of Commerce also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in such manner as will permit U.S.-flag bulk vessels freely to compete with foreign-flag bulk carrying vessels.”

SEC. 29. Section 1101(c) of the Merchant Marine Act, 1936 (46 U.S.C. 1271(c)), is amended as follows:

(1) By striking out the word "and" immediately before the words "floating drydocks".

(2) By inserting after the word "walls" and before the word "owned" a comma and the words "and oceanographic research or instruction vessels".

SEC. 30. Section 1103(e) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(e)), is amended by striking the figure "\$1,000,000,000" and inserting in lieu thereof the figure "\$3,000,000,000".

SEC. 31. Section 1104(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)), is amended by inserting in paragraph (8) immediately before the words "commercial use" the words "research, or for".

SEC. 32. Section 1104(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)), is amended as follows:

(1) By inserting in paragraph (2) immediately before the words "commercial use" the words "research or for".

(2) By striking from paragraph (4) the words "be less than" and inserting in lieu thereof the words "not exceed".

(3) By inserting at the end of paragraph (4), immediately before the semicolon, a colon and a proviso to read as follows: "*Provided, however,* That in the case of a vessel, the size and speed of which are approved by the Secretary of Commerce, and which is eligible for mortgage aid for construction under section 509 of this Act and in respect of which the minimum downpayment by the mortgagor required by that section would be 12½ per centum of the cost of such vessel, the advance and the principal amount of all other advances under insured loans outstanding at the time of said advance shall not exceed 87½ per centum of such actual cost".

SEC. 33. Section 1105(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1275(d)) is amended by striking the last sentence thereof and inserting a new sentence to read as follows: "Such installments shall include interest on the purchase price remaining unpaid at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such installments, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs."

SEC. 34. Section 1214 of the Merchant Marine Act, 1936 (46 U.S.C. 1294), is amended by striking out the words "20 years from the date of enactment of this title" and inserting in lieu thereof the date "September 7, 1975".

SEC. 35. (a) The word "Commission" is stricken out of sections 210, 211, 501, 502, 503, 504, 505, 510(b), 601(a), 602, 603, 605(c), and 606 of the Merchant Marine Act, 1936, wherever it appears, and the words "Secretary of Commerce" are inserted in lieu thereof.

(b) Subsection (a) of section 211 of the Merchant Marine Act, 1936, is amended by striking out the word "its" and inserting in lieu thereof the word "his".

(c) The second sentence of section 501(a) of the Merchant Marine Act, 1936, is amended by striking out the word "it" and inserting the word "he" in lieu thereof.

(d) The second sentence of section 501(c) of the Merchant Marine Act, 1936, is amended by striking out the word "its" and inserting the word "his" in lieu thereof.

(e) The first sentence of section 502(a) of the Merchant Marine Act, 1936, is amended by striking out the word "it" and inserting the word "he" in lieu thereof.

68 Stat. 1267;  
74 Stat. 733.

68 Stat. 1268.

Ante, p. 1022.

79 Stat. 264.

46 USC 1120,  
1121, 1151-1155,  
1160, 1171-1173,  
1175, 1176.

52 Stat. 956.  
46 USC 1152.

(f) The third sentence of section 502(c) of the Merchant Marine Act, 1936, is amended by striking out the word "Commission's" and inserting the words "Secretary of Commerce's" in lieu thereof.

49 Stat. 1997.

(g) The next to the last sentence of section 502(e) of the Merchant Marine Act, 1936, is amended by striking out the word "its" and inserting in lieu thereof the word "his".

46 USC 1171.

(h) The third sentence of section 601(a) of the Merchant Marine Act, 1936, is amended by striking out the word "it" and inserting the word "he" in lieu thereof.

46 USC 1173.

(i) The first sentence of section 603(a) of the Merchant Marine Act, 1936, is amended by striking out the word "it" and inserting the word "he" in lieu thereof.

46 USC 1175.

(j) The last sentence of section 605(c) of the Merchant Marine Act, 1936, is amended by striking out the word "it" and inserting the word "he" in lieu thereof.

46 USC 1176.

(k) Section 606 of the Merchant Marine Act, 1936, is amended as follows:

(1) By striking out of subdivision (1) the word "its" wherever it appears and inserting in lieu thereof the word "his".

(2) By striking out of subdivision (1) and (3) the word "it" and inserting in lieu thereof the word "he".

(3) By striking out of subdivision (1) the word "Its" and inserting in lieu thereof the word "His".

49 Stat. 1985.

SEC. 36. Section 201(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1111(b)), is amended by striking out the word "Commission" wherever it appears in the last sentence thereof and inserting in lieu thereof the words "Federal Maritime Commission".

46 USC 1111  
note.

SEC. 37. Section 303 of Reorganization Plan Numbered 21 of 1950 (64 Stat. 1273) is amended by striking out the words at the end thereof "or of the Maritime Administration".

46 USC 1111  
note.

SEC. 38. Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended as follows:

(a) By striking out section 201 and inserting in lieu thereof a new section 201 to read as follows:

"SEC. 201. MARITIME ADMINISTRATOR.—There shall be at the head of the Maritime Administration (established by the provisions of part II of Reorganization Plan 21 of 1950) a Maritime Administrator, hereinafter referred to as the Administrator. The Assistant Secretary of Commerce for Maritime Affairs shall, ex officio, be the Administrator. The Administrator shall perform such duties as the Secretary of Commerce shall prescribe."

(b) By striking out of section 301 the words at the end thereof "and to the Maritime Administrator and all other officers and employees of the Maritime Administration".

69 Stat. 83.

SEC. 39. The Act of April 29, 1941 (40 U.S.C. 270e), is hereby amended by adding a new section 2 to read as follows:

40 USC 270a-  
270d.

"SEC. 2. The Secretary of Commerce may waive the Act of August 24, 1935 (49 Stat. 793-794), with respect to contracts for the construction, alteration, or repair, of vessels of any kind or nature, entered into pursuant to the Act of June 30, 1932 (47 Stat. 382, 417-418), as amended, the Merchant Marine Act, 1936, or the Merchant Ship Sales Act of 1946, regardless of the terms of such contracts as to payment or title."

56 Stat. 661.  
31 USC 686.  
  
60 Stat. 41.  
50 USC app.  
1735 note.  
Applicability  
to existing con-  
tracts.

SEC. 40. (a) The amendments made by this Act shall not affect any contract with the Secretary of Commerce or his delegates that is in effect on the date of enactment of this Act. At the request of the other party to such operating-differential subsidy contract, the Secretary of Commerce shall amend such contract so as to be in accordance with all of the amendments made by this Act. No amendment

made by this Act shall be incorporated in such contract unless all such amendments are incorporated in such contract, except that if the other party elects to continue under the "old fund" as provided in section 607 as amended by section 21 of this Act, such amendment need not be incorporated in such contract. Until such contract is amended or if such contract is not amended, it shall be administered in accordance with the provisions of the Merchant Marine Act, 1936, as they existed immediately prior to enactment of this Act. Nothing in section 16 of this Act amending section 603 of the Merchant Marine Act, 1936 or in the contracts made thereunder, shall be deemed to affect or to change existing law or contracts with respect to the proceedings now pending before the Secretary of Commerce relating to the payment of subsidy in respect of cargoes covered by section 901 (b) (1) of the Merchant Marine Act, 1936, section 616(a) of title 15, United States Code, or section 2631 of title 10, United States Code.

(b) If any operating-differential subsidy contract in existence on the date of enactment of this Act is amended by including all of the amendments made by this Act or all of the amendments made by this Act other than those made by section 21, the operator may elect to terminate his recapture period as of the date of such contract amendment and have his recapture computed on the basis of the shortened period, or he may elect to continue his recapture period until the end of its ten-year term and continue his recapture obligations as provided by the Merchant Marine Act, 1936, prior to the enactment of this Act until the end of such ten-year period. The amendments in either event shall provide that, with respect to seafaring personnel, in determining the rights and obligations of the contractor under such contract, the limitation of section 805(c) of the Merchant Marine Act, 1936, as it existed immediately before the enactment of this Act shall not apply.

SEC. 41. (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 seven members appointed by the President. 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.

(2) Members of the Commission who are not full-time employees of the United States Government shall each be entitled to receive the per diem equivalent of the rate authorized for GS-18 of the General Schedule under section 5332 of title 5 of the United States Code 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 section 5703 of 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 may appoint an Executive Director without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and shall fix his compensation without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates.

(5) The Commission shall have the power to appoint and fix the compensation of such personnel, as it deems advisable, subject (except as provided in paragraph (4) hereof) to the civil service laws and classification laws.

*Ante*, p. 1026.

46 USC 1245.

*Ante*, p. 1023.

*Ante*, p. 1034.

48 Stat. 500.

70A Stat. 146.

Operating-  
differential  
subsidy contracts,  
amendment provi-  
sions.

66 Stat. 765.

46 USC 1223.

Commission on  
American Ship-  
building, estab-  
lishment.

Compensation,  
travel expenses.

*Ante*, p. 198-1.

80 Stat. 499;  
83 Stat. 190.

Executive  
Director.

80 Stat. 443,  
467.

5 USC 5101,  
5331.

Experts and consultants.  
80 Stat. 416.

*Ante*, p. 198-1.

80 Stat. 499;  
83 Stat. 190.

American shipbuilding industry, status review.

46 USC 1151.

Recommendations.

Report to President and Congress.  
*Ante*, p. 1020.

Appropriation.

Assistant Secretary of Commerce for Maritime Affairs, appointment by President.

Compensation.  
83 Stat. 863.

St. Lawrence Seaway Development Corp.  
68 Stat. 94;  
71 Stat. 307.

(6) The Commission may procure, in accordance with the provisions of section 3109 of title 5 of the United States Code, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at the rate to be fixed by the Commission, but not in excess of the per diem equivalent of the rate authorized for GS-18 of the General Schedule under section 5332 of title 5 of the United States Code, 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 section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

(7) The Commission shall review the status of the American shipbuilding industry, its problems and its progress toward increasing its productivity and reducing production costs. The Commission shall determine whether the American shipbuilding industry can achieve a level of productivity by the fiscal year 1976 such that the construction-differential subsidy payable under title V of the Merchant Marine Act, 1936, will not exceed 35 per centum of the United States construction cost. The Commission shall recommend a course of action which should be taken on the part of Government and industry to improve the competitive situation of the United States shipbuilding industry in world shipbuilding markets and if the Commission shall determine that the construction-differential subsidy cannot be reduced to 35 per centum of the United States cost it shall recommend alternatives to the ship construction program then in effect.

(8) The Commission shall not later than three years after the date of enactment of this Act or such earlier dates as shall be required by section 502(b) of the Merchant Marine Act, 1936, submit a comprehensive report of its findings and recommendations to the President and to the Congress, and sixty days thereafter shall cease to exist.

(9) There are hereby authorized to be appropriated such amounts as may be necessary to permit the Commission to carry out its responsibilities under this Act.

SEC. 42. (a) There shall be in the Department of Commerce, in addition to the Assistant Secretaries now provided by law, one additional Assistant Secretary of Commerce who shall be known as the Assistant Secretary of Commerce for Maritime Affairs, shall be appointed by the President by and with the advice and consent of the Senate, shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, and shall perform such duties as the Secretary of Commerce shall prescribe.

(b) Section 5315 of title 5, United States Code, is amended by striking "(5)" at the end of item (12) and substituting "(6)".

SEC. 43. (a) (1) Section 5 of the Act of May 13, 1954, as amended (33 U.S.C. 985), is further amended by inserting "(a)" immediately after "SEC. 5.", and by striking out the fourth, fifth, and eighth sentences thereof.

(2) Such section is further amended by adding at the end thereof the following new subsection:

"(b) Effective as of the date of enactment of this subsection the obligations of the Corporation incurred under subsection (a) of this section shall bear no interest, and the obligation of the Corporation to pay the unpaid interest which has accrued on such obligations is terminated."

(b) (1) Subsection (a) of section 12 of such Act (33 U.S.C. 988(a)) is amended by inserting after the first sentence the following: "Any formula for a division of revenues which takes into consideration annual debt charges shall include the total cost, including both inter-

est and debt principal, incurred by the United States in financing activities authorized by this Act, whether or not reimbursable by the Corporation."

(2) Subsection (b) (4) of such section 12 is amended by striking out the words "payment of interest on the obligations of the Corporation,".

SEC. 44. This Act may be cited as the "Merchant Marine Act of 1970".

Approved October 21, 1970.

## Public Law 91-470

### AN ACT

To permit the use for any public purpose of certain real property in the State of Georgia.

October 21, 1970  
[H. R. 9164]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States hereby consents to the use of the land described as the "Rocky Face Ridge Site" in the quitclaim deed to the State of Georgia executed by the Secretary of the Interior pursuant to the Act of September 21, 1950 (64 Stat. 896), for any public purpose, notwithstanding the provisions of said Act and deed limiting the use of the land to use as a part of the park system of the State. Said deed shall be deemed to be corrected accordingly, and an appropriate reference to this Act shall be noted on the records of the county in which said deed is recorded.

Georgia.  
Real property,  
public use.

Approved October 21, 1970.

## Public Law 91-471

### AN ACT

To declare that the United States holds 19.57 acres of land, more or less, in trust for the Yankton Sioux Tribe.

October 21, 1970  
[H. R. 13519]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all right, title, and interest of the United States in and to the following described federally owned land situated in the southwest quarter southwest quarter, section 26, township 94 north, range 64 west, fifth principal meridian, South Dakota, are hereby declared to be held by the United States in trust for the Yankton Sioux Tribe:

Yankton Sioux  
Tribe, S. Dak.  
Lands held in  
trust.

Beginning at a point 4 chains and 36 links east of the southwest corner of said section 26; running thence north 31 degrees 30 minutes east 6 chains and 52 links; thence north 58 degrees 30 minutes west 54½ links; thence north 31 degrees 31 minutes east 16 chains and 83 links; thence east 3 chains and 87 links to the northeast corner of the southwest quarter of the southwest quarter of said section 26; thence south 19 chains and 93 links to the southeast corner of said 40-acre tract; thence west 15 chains and 44 links to place of beginning; containing 19.57 acres, more or less.

SEC. 2. The Indian Claims Commission is directed to determine in accordance with the provisions of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the title conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

Claims offset  
against U. S.  
25 USC 70a.

Approved October 21, 1970.