

Calendar No. 295

109TH CONGRESS
1ST SESSION

S. 2029

[Report No. 109–183]

To amend and enhance certain maritime programs of the Department of Transportation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2005

Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend and enhance certain maritime programs of the Department of Transportation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Maritime Administration Enhancement Act of 2005”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ENHANCEMENT OF MARITIME PROGRAMS.

- Sec. 101. United States Maritime Service.
 Sec. 102. War risk insurance for merchant marine vessels.
 Sec. 103. Maritime education and training.
 Sec. 104. Authority to dispose of obsolete government vessels.
 Sec. 105. Awards and medals.
 Sec. 106. Elimination of tariffs on certain national defense activities.
 Sec. 107. Availability of funds from application fees for deepwater port licenses.
 Sec. 108. Availability of funds from administrative waivers of coastwise trade laws for eligible vessels.
 Sec. 109. Amendment to vessel operations revolving fund.
 Sec. 110. Right to use Maritime Administration decoration.
 Sec. 111. Hawaii port infrastructure expansion program.
 Sec. 112. Payments for State and regional maritime academies.
 Sec. 113. Reduction of report burden.
 Sec. 114. Assistance for small shipyards and maritime communities.

TITLE II—LOAN GUARANTEE PROGRAM ADMINISTRATIVE CHANGES

- Sec. 201. Redesignation of duplicate numbered sections.
 Sec. 202. Transfer of authority for Title XI non-fishing loan guarantee decisions to MARAD.

1 **TITLE I—ENHANCEMENT OF**
 2 **MARITIME PROGRAMS**

3 **SEC. 101. UNITED STATES MARITIME SERVICE.**

4 Section 1306(a) of the Maritime Education and
 5 Training Act of 1980 (46 U.S.C. App. 1295e(a)), is
 6 amended by inserting “and to perform functions to assist
 7 the United States merchant marine, as determined nec-
 8 essary by the Secretary,” after “United States” the sec-
 9 ond place it appears.

10 **SEC. 102. WAR RISK INSURANCE FOR MERCHANT MARINE**
 11 **VESSELS.**

12 Section 1208(a) of the Merchant Marine Act, 1936
 13 (46 U.S.C. App. 1288(a)) is amended by striking “Upon
 14 the request of the Secretary of Transportation, the Sec-
 15 retary of the Treasury may invest or reinvest all or any

1 part of the fund in securities of the United States or in
2 securities guaranteed as to principal and interest by the
3 United States.” and inserting “The Secretary of Trans-
4 portation may request the Secretary of the Treasury to
5 invest such portion of the fund as is not, in the judgment
6 of the Secretary of Transportation, required to meet the
7 current needs of the fund. Such investments shall be made
8 by the Secretary of the Treasury in public debt securities
9 of the United States, with maturities suitable to the need
10 of the fund, and bearing interest rates determined by the
11 Secretary of the Treasury, taking into consideration cur-
12 rent market yields on outstanding marketable obligations
13 of the United States of comparable maturity.”.

14 **SEC. 103. MARITIME EDUCATION AND TRAINING.**

15 (a) REQUIREMENTS FOR ADMISSION TO THE UNITED
16 STATES MERCHANT MARINE ACADEMY.—Section
17 1303(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C.
18 App. 1295b(b)(2)) is amended by adding at the end the
19 following:

20 (C) Notwithstanding any other provision of
21 law, an individual appointed as a cadet may not be
22 admitted to the Academy as a student, unless at the
23 time of the taking of the official oath upon entry
24 into the Merchant Marine Academy, that individual
25 satisfies the physical and mental requirements of the

1 Department of Defense to be appointed or enlisted
2 as a Midshipman, United States Naval Reserve. Fol-
3 lowing admission to the Academy, notwithstanding
4 any other provision of law, such individual may con-
5 tinue as a student only if that individual continues
6 to satisfy the physical and mental standards set
7 forth in this subparagraph unless the Secretary of
8 Transportation waives the standards.”.

9 (b) RESERVE TRAINING COMPLIANCE AND ARMED
10 FORCES PERFORMANCE REPORTING REQUIREMENT FOR
11 UNITED STATES MERCHANT MARINE ACADEMY GRAD-
12 UATES.—Section 1303(e) of the Merchant Marine Act,
13 1936 (46 U.S.C. App. 1295b(e)) is amended—

14 (1) by striking subparagraph (D) of paragraph
15 (1) and inserting the following:

16 “(D) to apply for an appointment as, to accept
17 if tendered an appointment as, and to serve and per-
18 form all required duties and comply with all require-
19 ments as, a commissioned officer in Ready Reserve
20 status in the United States Naval Reserve (including
21 the Merchant Marine Reserve and the United States
22 Naval Reserve), any other Reserve component of an
23 armed force of the United States, or any other
24 equivalent, as determined by the Secretary;” and

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

1 “(6)(A) In order to meet the requirements of para-
2 graph (1)(D), a graduate of the Academy shall perform
3 all directed training and obey all orders and directions re-
4 quired by the relevant Reserve Component and remain
5 qualified in Ready Reserve classification for a period of
6 not less than 6 years, as required by the regulations of
7 the applicable armed service unless such compliance is
8 waived by the Secretary of Defense or the Secretary of
9 the Department in which the United States Coast Guard
10 is operating.

11 “(B) Notwithstanding section 552a of title 5, United
12 States Code, the Secretary of Defense or the Secretary
13 of the Department in which the Coast Guard is operating,
14 and the Administrator of the National Oceanic and At-
15 mospheric Administration—

16 “(i) shall report the status of obligated service
17 of an individual graduate upon request of the Mari-
18 time Administration; and

19 “(ii) may, in their discretion, notify the Mari-
20 time Administration of the default in performance of
21 an graduate in the performance of the graduate’s
22 duties, either on active duty or in the Ready Reserve
23 Component of their respective service, or as a com-
24 missioned officer of the National Oceanic and At-
25 mospheric Administration.

1 “(C) A report or notice under subparagraph (B) shall
 2 identify the graduate determined to have been defaulted
 3 and provide all required information as to why such grad-
 4 uate has been defaulted. Upon receipt of such a report
 5 or notice, such graduate may be considered to be in de-
 6 fault of the graduate’s service obligations by the Maritime
 7 Administration, and be subject to all remedies the Mari-
 8 time Administration may have with respect to such a de-
 9 fault.”.

10 (c) AUTHORITY FOR ADDITIONAL TRAINING LOCA-
 11 TIONS FOR STUDENTS AT THE UNITED STATES MER-
 12 CHANT MARINE ACADEMY.—Section 1303(f) of the Mer-
 13 chant Marine Act, 1936 (46 U.S.C. App. 1295b(f) is
 14 amended—

15 (1) by striking “and” in paragraph (2);

16 (2) by striking “organizations.” in paragraph

17 (3) and inserting “organizations; and”; and

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

19 “(4) on such other vessels as the Secretary de-

20 termines to be valuable for the education of cadets

21 at the Academy or in the interest of national secu-

22 rity.”.

23 (d) SERVICE IN THE ARMED FORCES AND ALTER-

24 NATE SERVICE REQUIREMENTS.—Section 1303(e) of the

25 Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(e)),

1 as amended by subsection (b) of this section, is further
 2 amended by adding at the end the following:

3 “(7) An individual who serves as a commissioned offi-
 4 cer on active duty in an armed force of the United States
 5 or in the National Oceanic and Atmospheric Administra-
 6 tion for the 5 years immediately following graduation from
 7 the Academy shall be excused from the requirements of
 8 subparagraphs (1)(C), (1)(D), and (1)(E).

9 “(8) The Secretary may modify or waive any of the
 10 terms and conditions set forth in paragraph (1) through
 11 the imposition of alternative service requirements.”.

12 (e) GLOBAL MARITIME AND TRANSPORTATION
 13 SCHOOL.—Title XIII of the Merchant Marine Act, 1936
 14 (46 U.S.C. App. 1295 et seq.) is amended by adding at
 15 the end the following:

16 **“SEC. 1309. OPERATION OF THE GLOBAL MARITIME AND**
 17 **TRANSPORTATION SCHOOL.**

18 “(a) OPERATION AS NONAPPROPRIATED FUND IN-
 19 STRUMENTALITY.—After the date of enactment of the
 20 Maritime Administration Enhancement Act of 2005, the
 21 Global Maritime and Transportation School shall continue
 22 to operate as a nonappropriated fund instrumentality of
 23 the United States under the jurisdiction of the Depart-
 24 ment of Transportation, Maritime Administration.

25 “(b) ACTIVITIES.—

1 “(1) IN GENERAL.—Under the general super-
2 vision of the Department of Transportation, Mari-
3 time Administration, GMATS shall develop, admin-
4 ister, and provide educational, training, and profes-
5 sional development activities, including educational
6 activities, for Federal agencies, Federal employees,
7 nonprofit organizations, other entities, and members
8 of the general public, as well as carry out such other
9 projects and activities that may be authorized by the
10 Superintendent.

11 “(2) TRAINING SERVICES.—The training serv-
12 ices and educational activities provided by GMATS
13 shall be available to the Armed Forces of the United
14 States and Commissioned Officers of the National
15 Oceanic and Atmospheric Administration, Federal
16 and State agencies, Federal and State employees,
17 nonprofit organizations, private companies or orga-
18 nizations, and private individuals of the United
19 States or foreign countries friendly to the United
20 States.

21 “(3) FEDERAL REQUESTS FOR SERVICES.—Re-
22 quests for training or other services from the Armed
23 Forces of the United States or other agencies of the
24 United States may be made pursuant to the provi-

1 sions of section 1535 of title 31, United States
2 Code.

3 “(c) FEES AND DONATIONS.—

4 “(1) COLLECTION OF FEES.—GMATS may
5 charge and retain fair and reasonable fees for the
6 activities provided.

7 “(2) ACCEPTANCE AND MAKING OF DONA-
8 TIONS.—

9 “(A) GMATS may accept, use, hold, dis-
10 pose, and administer gifts, bequests, and de-
11 vises of money, securities, and other real or per-
12 sonal property made for the benefit of, or in
13 connection with GMATS.

14 “(B) GMATS shall not accept a donation
15 from a person that is actively engaged in a pro-
16 curement activity with GMATS or has an inter-
17 est that may be substantially affected by the
18 performance or nonperformance of an official
19 duty of a member of the Board or an employee
20 of GMATS.

21 “(C) GMATS is authorized to make gifts
22 to the Department of Transportation and the
23 Secretary is authorized to accept gifts from
24 GMATS for any purpose.

1 “(3) NOT FEDERAL FUNDS.—Fees collected
2 under paragraph (1) and amounts received under
3 paragraph (2) shall not be considered to be Federal
4 funds and shall not be required to be deposited in
5 the Treasury of the United States. GMATS shall not
6 be funded by appropriated funds.

7 “(d) USE OF USMMA FACULTY AND STAFF.—

8 “(1) PAYMENT.—GMATS may provide payment
9 to United States Merchant Marine Academy faculty
10 and staff for teaching and other services for
11 GMATS, but only to the extent that the provision of
12 such teaching or services does not interfere or con-
13 flict with the official duties of the faculty and staff
14 and are approved by the Superintendent.

15 “(2) CONTRACTING AUTHORITY.—The Academy
16 may enter into contracts with GMATS to provide
17 faculty and staff of the Academy for teaching and
18 other services and, to the extent of the actual costs
19 incurred by the Academy under said contracts, cred-
20 it such funds received under such contracts to the
21 Academy’s appropriations, notwithstanding those
22 provisions of law relating to the deposit of miscella-
23 neous receipts into the Treasury.

24 “(e) GENERAL ADMINISTRATION.—

1 “(1) AUTHORITY OF SUPERINTENDENT.—The
2 Superintendent is responsible for the overall super-
3 vision and administration of GMATS and the deter-
4 mination of its policies. In implementing this respon-
5 sibility, the Superintendent shall appoint members to
6 the Board and shall designate one member as the
7 Senior Managing Director and may designate other
8 Managing Directors as necessary.

9 “(2) AUTHORITY OF THE BOARD.—The Super-
10 intendent may delegate to the Board the Super-
11 intendent’s responsibility to advise and oversee the
12 supervision and administration of GMATS. The
13 Board may consist of both United States Merchant
14 Marine Academy employees and non-Academy em-
15 ployees, as determined by the Superintendent. The
16 Board shall be subject to regulation by the Secretary
17 and shall report to the Superintendent.

18 “(3) AUTHORITY OF THE SENIOR MANAGING
19 DIRECTOR.—The Superintendent may delegate to
20 the Senior Managing Director of GMATS the au-
21 thority to manage, administer, and operate GMATS.

22 “(4) DUTIES OF THE MANAGING DIRECTORS.—
23 The Senior Managing Director shall be responsible,
24 subject to the supervision and direction of the Board
25 and the Superintendent, for carrying out the func-

1 tions of GMATS. All other Managing Directors shall
2 be responsible, subject to the supervision and direc-
3 tion of the Senior Managing Director, for carrying
4 out the functions of GMATS.

5 “(5) BORROWING AND INVESTMENT AUTHOR-
6 ITY.—The Board, with the approval of the Super-
7 intendent, may authorize the Senior Managing Di-
8 rector—

9 “(A) to borrow money on the credit of
10 GMATS; and

11 “(B) to invest funds held in excess of the
12 current operating requirements of GMATS for
13 purposes of maintaining a reasonable reserve.

14 “(6) LIABILITY.—The Managing Directors and
15 the other members of the Board shall not be held
16 personally liable for any loss or damage that may ac-
17 crue to GMATS as the result of any act performed
18 within the scope of their duties under this section.

19 “(f) EMPLOYEES.—Employees of GMATS are em-
20 ployees of a nonappropriated fund instrumentality of the
21 United States.

22 “(g) NOT A FEDERAL AGENCY.—The GMATS shall
23 not be considered a Federal agency for purposes of—

24 “(1) the Federal Advisory Committee Act (5
25 U.S.C.); or

1 “(2) sections 552 and 552a of title 5, United
2 States Code.

3 “(h) ACQUISITION AND DISPOSAL OF PROPERTY.—
4 In order to carry out the activities of GMATS, GMATS
5 may—

6 “(1) acquire goods, services, and real property
7 by lease, purchase, or otherwise;

8 “(2) maintain, enlarge, or remodel any such
9 property;

10 “(3) have sole control of any such personal or
11 real property; and

12 “(4) dispose of real and personal property with-
13 out regard to the Federal Property and Administra-
14 tive Services Act of 1949 (40 U.S.C. 101 et seq.).

15 “(i) CONTRACT AUTHORITY.—GMATS may enter
16 into contracts and leases without regard to the Federal
17 Property and Administrative Services Act of 1949 (40
18 U.S.C. 101 et seq.) or any other law that prescribes proce-
19 dures for the procurement of property or service by an
20 executive agency.

21 “(j) USE OF DEPARTMENT FACILITIES AND RE-
22 SOURCES.—GMATS may use the facilities and resources
23 of the Department of Transportation, with the approval
24 of the Superintendent, but only if any costs incurred by
25 the Department that are attributable solely to GMATS op-

1 erations and all costs incurred by GMATS arising out of
2 such operations are paid using funds of GMATS or the
3 Department of Transportation receives other consider-
4 ation for paying for such costs. Any reimbursement may
5 be retained by the United States Merchant Marine Acad-
6 emy and credited to the charged appropriations account.

7 “(k) AUDITS OF RECORDS.—The financial records of
8 GMATS shall be made available to the Department of
9 Transportation Inspector General, upon request, for pur-
10 poses of conducting an audit.

11 “(l) DEFINITIONS.—In this section:

12 “(1) GMATS.—The term ‘GMATS’ means the
13 Global Maritime and Transportation School at the
14 United States Merchant Marine Academy, a non-
15 appropriated fund instrumentality of the Maritime
16 Administration of the United States Department of
17 Transportation.

18 “(2) BOARD.—The term ‘Board’ means the
19 GMATS Board of Directors.

20 “(3) DIRECTOR.—The term ‘Director’ means a
21 member of the GMATS Board.

22 “(4) MANAGING DIRECTOR.—The term ‘Man-
23 aging Director’ means a member of the Board who
24 is an employee of GMATS with operational responsi-

1 bility for the organization, but not a Federal em-
 2 ployee.

3 “(5) SENIOR MANAGING DIRECTOR.—The term
 4 ‘Senior Managing Director’ means the Managing Di-
 5 rector designated the ‘Senior Managing Director’ by
 6 the Superintendent, as set forth in subsection (e) of
 7 this section.

8 “(6) SECRETARY.—The term ‘Secretary’ means
 9 the Secretary of Transportation.

10 “(7) SUPERINTENDENT.—The term ‘Super-
 11 intendent’ means the Superintendent of the United
 12 States Merchant Marine Academy at Kings Point,
 13 New York, operated by the Maritime Administra-
 14 tion, United States Department of Transportation
 15 or, in the absence of the Superintendent, the Super-
 16 intendent’s authorized designee or such other person
 17 as the Secretary may designate.”.

18 **SEC. 104. AUTHORITY TO DISPOSE OF OBSOLETE GOVERN-**
 19 **MENT VESSELS.**

20 (a) REPEAL OF LIMITATION ON SCRAPPING.—Sec-
 21 tion 3502 of the Floyd D. Spence National Defense Au-
 22 thorization Act of Fiscal Year 2001 (Pub. L. 106-398;
 23 114 Stat.1654A-490) is amended-

24 (1) by striking subsection (e);

1 (2) redesignating subsections (d), (e), and (f) as
2 subsections (c), (d), and (e), respectively; and

3 (3) striking “subsection (d)(1)” in subsections
4 ((d) and (e), as redesignated, and inserting “sub-
5 section (c)(1)”.

6 (b) TRANSFER OF TITLE OF OBSOLETE VESSELS TO
7 BE DISPOSED OF AS ARTIFICIAL REEFS.—Paragraph (4)
8 of section 4 of the Act entitled “An Act to authorize ap-
9 propriations for the fiscal year 1973 for certain maritime
10 programs of the Department of Commerce, and for related
11 purposes” (Pub. L. 92-402; 16 U.S.C. 1220a) is amended
12 to read as follows:

13 “(4) the transfer would be at no cost to the
14 government (except for any financial assistance pro-
15 vided under section 1220(c)(1) of this title) with the
16 State taking delivery of such obsolete ships and ti-
17 tles in an ‘as-is—where-is’ condition at such place
18 and time designated as may be determined by the
19 Secretary of Transportation.”.

20 **SEC. 105. AWARDS AND MEDALS.**

21 Section 5(c) of the Merchant Marine Decorations and
22 Medals Act (46 U.S.C. App. 2004(c)) is amended by strik-
23 ing “provide at cost, or authorize for the manufacture and
24 sale at reasonable prices by private persons—” and insert-
25 ing “provide—”.

1 **SEC. 106. ELIMINATION OF TARIFFS ON CERTAIN NA-**
2 **TIONAL DEFENSE ACTIVITIES.**

3 (a) DUTY-FREE TREATMENT FOR EMERGENCY WAR
4 MATERIALS IMPORTED FOR USE BY THE MARITIME AD-
5 MINISTRATION.—

6 (1) The superior text to subheading 9808.00.30
7 of chapter 98 of the Harmonized Tariff Schedule of
8 the United States is amended by inserting “or the
9 Maritime Administration” after “departments”.

10 (2) Subheading 9808.00.30 of chapter 98 of the
11 Harmonized Tariff Schedule of the United States is
12 re-designated as subheading 9808.00.35.

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

18 (b) REPAIRS MADE TO VESSELS OPERATED AS PART
19 OF THE NATIONAL DEFENSE RESERVE FLEET.—Section
20 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amend-
21 ed by redesignating subsections (g) and (h) as subsections
22 (h) and (i), respectively, and inserting after subsection (f)
23 the following:

24 “(g) NATIONAL DEFENSE RESERVE FLEET EXCEP-
25 TION.—

1 “(1) IN GENERAL.—The duty imposed under
2 subsection (a) shall not apply to the cost of equip-
3 ment, or any part thereof purchased, of repair parts
4 or materials used, or expenses of repairs made in a
5 foreign country for any vessel operated as part of
6 the National Defense Reserve Fleet when the vessel
7 is under the jurisdictional control of the Department
8 of Defense if equivalent equipment, parts, repair
9 parts, or materials made in the United States, or re-
10 pairs made in the United States were determined by
11 the Secretary of Transportation not to be reasonably
12 available.

13 “(2) REPORT ON DETERMINATIONS.—The Sec-
14 retary of Transportation shall transmit a report to
15 the Senate Committee on Commerce, Science, and
16 Transportation and the House of Representatives
17 Committee on Armed Services setting forth the cir-
18 cumstances under which any such determination was
19 made by the Secretary.”.

20 **SEC. 107. AVAILABILITY OF FUNDS FROM APPLICATION**
21 **FEEES FOR DEEPWATER PORT LICENSES.**

22 (a) IN GENERAL.—Fees collected pursuant to the
23 processing of applications for licenses for ownership, con-
24 struction, and operation of deepwater ports, as authorized
25 by section 5 of the Deepwater Port Act of 1974 (33 U.S.C.

1 1504), shall be credited to the Maritime Administration
2 for deposit into its operations and training account. Fees
3 credited pursuant to this section shall be used to defray
4 administrative expenses and for enhancements and im-
5 provements to the program's operations, and shall be
6 available until expended.

7 (b) LIMITATION.—The amount of fees credited to the
8 Administration under this section may not exceed
9 \$450,000 per fiscal year.

10 **SEC. 108. AVAILABILITY OF FUNDS FROM ADMINISTRATIVE**
11 **WAIVERS OF COASTWISE TRADE LAWS FOR**
12 **ELIGIBLE VESSELS.**

13 (a) IN GENERAL.—Notwithstanding section 3302 of
14 title 31, United States Code, fees collected pursuant to
15 the processing of Administrative Waivers of the Coastwise
16 Trade Laws for Eligible Vessels, as authorized by title V
17 of the Coast Guard Authorization Act of 1998 (46 U.S.C.
18 12106 note)—

19 (1) shall be credited as offsetting collections to
20 the Maritime Administration for deposit into its Op-
21 erations and Training account;

22 (2) shall be available for expenditure to defray
23 administrative expenses and for enhancements and
24 improvements to the program's operations; and

25 (3) shall remain available until expended.

1 (b) LIMITATION.—The amount of fees credited to the
2 Administration under this section may not exceed \$50,000
3 per fiscal year.

4 **SEC. 109. AMENDMENT TO VESSEL OPERATIONS REVOLV-**
5 **ING FUND.**

6 Section 801 of the Act of June 2, 1951 (46 U.S.C.
7 App. 1241a) is amended to read as follows:

8 **“SEC. 801. VESSEL OPERATIONS REVOLVING FUND.**

9 “(a) IN GENERAL.—There is established in the
10 Treasury, for the purposes set forth in subsection (b), a
11 Vessel Operations Revolving Fund which shall be available
12 without appropriation to the Secretary of Transportation.
13 All amounts in the Fund shall be available for the pur-
14 poses of the Fund, notwithstanding any other provision
15 of law, and shall remain available until expended.

16 “(b) USES.—Amounts in the Fund shall be available
17 for—

18 “(1) all expenses and charges relating to the
19 maintenance, repair, and operation of vessels under
20 the jurisdiction of the Secretary;

21 “(2) all expenses and charges relating to the
22 maintenance, repair, and operation of the facilities
23 necessary to preserve and maintain such vessels;

24 “(3) payment of all costs of, and indirect costs
25 that are reasonably related to, contracting, procure-

1 ment, inspection, storage, management, distribution,
2 and accountability of vessels under the jurisdiction
3 of the Secretary and such property, facilities, and
4 nonpersonal services as the Secretary deems nec-
5 essary for the operation and maintenance of such
6 vessels;

7 “(4) expenses incurred in activating, repairing,
8 and deactivating vessels under the jurisdiction of the
9 Secretary;

10 “(5) the acquisition of such vessels for the Na-
11 tional Defense Reserve Fleet as both the Secretary
12 and the Secretary of Navy deem necessary;

13 “(6) necessary expenses incurred in the protec-
14 tion, preservation, maintenance, acquisition, or use
15 of vessels of the National Defense Reserve Fleet in-
16 volved in mortgage foreclosure or forfeiture pro-
17 ceedings instituted by the United States Govern-
18 ment, including payment of prior claims and liens,
19 expenses of sale, and other related charges; and

20 “(7) costs and expenses incurred to repair dam-
21 ages to Government property under the jurisdiction
22 or control of the Secretary that is used in connection
23 with the National Defense Reserve Fleet.

24 “(c) CREDITS TO THE FUND.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, there shall be credited to and re-
3 tained by the Fund—

4 “(A) all amounts received in connection
5 with vessel operations for vessels under the ju-
6 risdiction of the Secretary; except that there
7 shall be no surcharge on charter hire or similar
8 collection in connection with vessel operations
9 for the purpose of the reserve described in sub-
10 section (c)(2); and

11 “(B) any reimbursements, advances,
12 setoffs, refunds, or recoveries arising out of or
13 relating to the operation and maintenance of
14 vessels of the National Defense Reserve Fleet
15 under the jurisdiction of the Secretary, includ-
16 ing any recoveries from litigation, arbitration,
17 or otherwise.

18 “(2) RESERVE.—There shall be established
19 and retained in the Fund from litigation and
20 arbitration recoveries a reserve, not to exceed
21 \$30,000,000 at any one time, for use as a re-
22 serve for unscheduled repairs and other nec-
23 essary expenses in connection with casualties to
24 vessels in the National Reserve Fleet.

1 “(d) LAWS RELATING TO SEAMEN.—Subject to the
2 provisions of sections 1(a) and (c), 3(c), and 4 of the Act
3 of March 24, 1943 (50 U.S.C. App. 1291(a) and (c),
4 1293(c), 1294), seamen employed on vessels in the cus-
5 tody of the Secretary and operated through the Sec-
6 retary’s ship managers or general agents may be so em-
7 ployed by such ship managers or agents in accordance
8 with customary commercial practices in the maritime in-
9 dustry without regard to any of the laws on employment
10 of persons by the United States.

11 “(e) ADVANCEMENTS.—With the approval of the Di-
12 rector of the Office of Management and Budget, the Sec-
13 retary may advance amounts the Secretary considers nec-
14 essary from the Fund to the Maritime Administration Op-
15 erations and Training appropriation account for purposes
16 of carrying out duties and powers related to the mainte-
17 nance, repair, and operation of vessels under the jurisdic-
18 tion of the Secretary, without regard to the limitations on
19 amounts stated in the Operations and Training appropria-
20 tion.

21 “(f) LIMITATIONS.—

22 “(1) IN GENERAL.—Amounts made available to
23 the Secretary for purposes of this section or any
24 other law may not be used to pay for a vessel de-
25 scribed in paragraph (2) unless the compensation to

1 be paid is computed under section 56303 of title 46,
 2 United States Code, as that section is interpreted by
 3 the Comptroller General.

4 “(2) APPLICABLE VESSELS.—Paragraph (1) ap-
 5 plies to a vessel—

6 “(A) the title to which is acquired by the
 7 Government by requisition or purchase;

8 “(B) the use of which is taken by requisi-
 9 tion or agreement; or

10 “(C) that is lost while insured by the Gov-
 11 ernment.

12 “(3) NONAPPLICABLE VESSELS.—Paragraph
 13 (1) does not apply to a vessel under a construction-
 14 differential subsidy contract.”.

15 **SEC. 110. RIGHT TO USE MARITIME ADMINISTRATION**
 16 **DECORATION.**

17 Section 8 of the Merchant Marine Decorations and
 18 Medals Act (46 U.S.C. App. 2007) is amended by insert-
 19 ing “or the Secretary of Transportation,” after “Act,”.

20 **SEC. 111. HAWAII PORT INFRASTRUCTURE EXPANSION**
 21 **PROGRAM.**

22 Amounts appropriated or otherwise made available
 23 for any fiscal year for an intermodal marine facility com-
 24 prising a component of the Hawaii Port Infrastructure

1 Expansion Program, and any non-Federal contributions
2 made available for that program, shall be—

3 (1) transferred to and administered by the Ad-
4 ministrator of the Maritime Administration; and

5 (2) subject only to such conditions and require-
6 ments as may be required by the Maritime Adminis-
7 tration.

8 **SEC. 112. PAYMENTS FOR STATE AND REGIONAL MARITIME**
9 **ACADEMIES.**

10 (a) ANNUAL PAYMENT.—Section 1304(d)(1)(C)(ii)
11 of the Merchant Marine Act, 1936 (46 U.S.C. App.
12 1295c(d)(1)(C)(ii)) is amended by striking “\$200,000”
13 and inserting “subject to the availability of appropriations,
14 \$300,000 for fiscal year 2006, \$400,000 for fiscal year
15 2007, and \$500,000 for fiscal year 2008 and each fiscal
16 year thereafter”.

17 (b) SCHOOL SHIP FUEL PAYMENT.—Section
18 1304(c)(2) of the Merchant Marine Act, 1936 (46 U.S.C.
19 App. 1295c(c)(2)) is amended—

20 (1) by striking ‘The Secretary may pay to any
21 State maritime academy’ and inserting ‘(A) The
22 Secretary shall, subject to the availability of appro-
23 priations, pay to each State maritime academy’; and

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

1 “(B) The amount of the payment to a State maritime
2 academy under this paragraph shall not exceed—

3 “(i) \$100,000 for fiscal year 2006;

4 “(ii) \$200,000 for fiscal year 2007; and

5 “(iii) \$300,000 for fiscal year 2008 and each
6 fiscal year thereafter.”.

7 **SEC. 113. REDUCTION OF REPORT BURDEN.**

8 Section 3502 of the Floyd D. Spence National De-
9 fense Authorization Act for Fiscal Year 2001 (114 Stat.
10 1654A-492), as amended by section 104, is further
11 amended by striking subsection (d), as redesignated, and
12 redesignating subsection (e) as subsection (d).

13 **SEC. 114. ASSISTANCE FOR SMALL SHIPYARDS AND MARI-
14 TIME COMMUNITIES.**

15 (a) ESTABLISHMENT OF PROGRAM.—The Adminis-
16 trator of the Maritime Administration shall establish a
17 program to provide assistance to State and local govern-
18 ments—

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

22 (2) for maritime training programs in commu-
23 nities whose economies are substantially related to
24 the maritime industry.

1 (b) AWARDS.—In providing assistance under the pro-
2 gram, the Administrator shall—

3 (1) take into account—

4 (A) the economic circumstances and condi-
5 tions of maritime communities; and

6 (B) the local, State, and regional economy
7 in which the communities are located; and

8 (2) strongly encourage State, local, and regional
9 efforts to promote economic development and train-
10 ing that will enhance the economic viability of and
11 quality of life in maritime communities.

12 (c) USE OF FUNDS.—Assistance provided under this
13 section may be used—

14 (1) to make capital and related improvements
15 in small shipyards located in or near maritime com-
16 munities;

17 (2) to encourage, assist in, or provide training
18 for residents of maritime communities that will en-
19 hance the economic viability of those communities;
20 and

21 (3) for such other purposes as the Adminis-
22 trator determines to be consistent with and supple-
23 mental to such activities.

24 (d) PROHIBITED USES.—Grants awarded under this
25 section may not be used to construct buildings or other

1 physical facilities or to acquire land unless such use is spe-
2 cifically approved by the Administrator in support of sub-
3 section (c)(5).

4 (e) MATCHING REQUIREMENTS.—

5 (1) FEDERAL FUNDING.—Except as provided in
6 paragraph (2), Federal funds for any eligible project
7 under this section shall not exceed 75 percent of the
8 total cost of such project.

9 (2) EXCEPTIONS.—

10 (A) SMALL PROJECTS.—Paragraph (1)
11 shall not apply to grants under this section for
12 stand alone projects costing not more than
13 \$25,000. The amount under this subparagraph
14 shall be indexed to the consumer price index
15 and modified each fiscal year after the annual
16 publication of the consumer price index.

17 (B) REDUCTION IN MATCHING REQUIRE-
18 MENT.—If the Administrator determines that a
19 proposed project merits support and cannot be
20 undertaken without a higher percentage of Fed-
21 eral financial assistance, the Administrator may
22 award a grant for such project with a lesser
23 matching requirement than is described in
24 paragraph (1).

25 (f) APPLICATION.—

1 (1) IN GENERAL.—The Administrator shall de-
2 termine who, as an eligible applicant, may submit an
3 application, at such time, in such form, and con-
4 taining such information and assurances as the Ad-
5 ministrator may require.

6 (2) MINIMUM STANDARDS FOR PAYMENT OR
7 REIMBURSEMENT.—Each application submitted
8 under paragraph (1) shall include—

9 (A) a comprehensive description of—

10 (i) the need for the project;

11 (ii) the methodology for implementing
12 the project; and

13 (iii) any existing programs or arrange-
14 ments that can be used to supplement or
15 leverage assistance under the program.

16 (3) PROCEDURAL SAFEGUARDS.—The Adminis-
17 trator, in consultation with the Office of the Inspec-
18 tor General, shall issue guidelines to establish appro-
19 priate accounting, reporting, and review procedures
20 to ensure that—

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

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

1 (C) grant funds not used for such purposes
2 and amounts not obligated or expended are re-
3 turned.

4 (4) PROJECT APPROVAL REQUIRED.—The Ad-
5 ministrator may not award a grant under this sec-
6 tion unless the Administrator determines that—

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

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

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

13 (g) AUDITS AND EXAMINATIONS.—All grantees
14 under this section shall maintain such records as the Ad-
15 ministrator may require and make such records available
16 for review and audit by the Administrator.

17 (h) SMALL SHIPYARD DEFINED.—In this section, the
18 term “small shipyard” means a shipyard that—

19 (1) is a small business concern (within the
20 meaning of section 3 of the Small Business Act (15
21 U.S.C. 632); and

22 (2) does not have more than 600 employees.

23 (i) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Administrator of

1 the Maritime Administration for each of fiscal years 2006
2 through 2010 to carry out this section—

3 (1) \$5,000,000 for training grants; and

4 (2) \$25,000,000 for capital and related im-
5 provement grants.

6 **TITLE II—LOAN GUARANTEE**
7 **PROGRAM ADMINISTRATIVE**
8 **CHANGES**

9 **SEC. 201. REDESIGNATION OF DUPLICATE NUMBERED SEC-**
10 **TIONS.**

11 Title XI of the Merchant Marine Act, 1936 (46
12 U.S.C. App. 1271 et seq.) is amended by redesignating
13 the second sections 1111 and 1112, as added by section
14 303 of the Sustainable Fisheries Act (Public Law 104-
15 297; 110 Stat. 3616) as sections 1113 and 1114, respec-
16 tively.

17 **SEC. 202. TRANSFER OF AUTHORITY FOR TITLE XI NON-**
18 **FISHING LOAN GUARANTEE DECISIONS TO**
19 **MARAD.**

20 (a) IN GENERAL.—Title XI of the Merchant Marine
21 Act, 1936 (46 U.S.C. App. 1271 et seq.) is amended—

22 (1) by striking “Secretary” each place it ap-
23 pears and inserting “Secretary or Administrator”
24 in—

25 (A) section 1101 (c), (f), and (g);

- 1 (B) section 1102;
- 2 (C) section 1103(a), (b), (c), (e), (g), and
3 (h);
- 4 (D) section 1104A, except in—
- 5 (i) subsection (b)(7) and the undesig-
6 nated paragraph that follows;
- 7 (ii) paragraphs (1), (2), (3)(B), and
8 (4) of subsection (d);
- 9 (iii) subsection (e)(2)(F) the second
10 place it appears;
- 11 (iv) subsection (j); and
- 12 (v) subsection (n)(1) the first place it
13 appears;
- 14 (E) section 1104B;
- 15 (F) section 1105(a), (b), (c), and (e);
- 16 (G) section 1105(d) the first, second,
17 third, fifth, and last places it appears; and
- 18 (H) sections 1108, 1109 (except in sub-
19 section (c)), and 1113 (as redesignated by sec-
20 tion 201 of this title);
- 21 (2) by striking “Secretary” and inserting “Ad-
22 ministratoꝛ” in—
- 23 (A) section 1103(i);
- 24 (B) section 1103(j) the first place it ap-
25 pears;

1 (C) section 1104A(b)(7) each place it ap-
2 pears but not in the undesignated paragraph
3 that follows subsection (b)(7);

4 (D) section 1104A(d)(1)(A) each place it
5 appears except the first;

6 (E) section 1104A(d)(3) each place it ap-
7 pears except in subparagraph (B);

8 (F) section 1104A(j)(1) the first, fifth, and
9 seventh places it appears;

10 (G) section 1104A(n) each place it appears
11 except the first;

12 (H) section 1110 each place it appears ex-
13 cept the first and fourth places it appears in
14 subsection (b);

15 (I) section 1111(a) and (b)(2) each place
16 it appears;

17 (J) section 1111(b)(4) each place it ap-
18 pears except the first; and

19 (K) section 1112 each place it appears;
20 and

21 (3) by striking “Secretary’s” in sections
22 1108(g)(1) and 1109(d)(3) and inserting “Sec-
23 retary’s or Administrator’s”.

24 (b) ADDITIONAL AND CONFORMING TITLE XI
25 CHANGES.—

1 (1) Section 1101 is amended—

2 (A) by striking “title,” and all that follows
3 in subsection (n) and inserting “title.”; and

4 (B) by adding at the end the following:

5 “(p) The term ‘Administrator’ means the Ad-
6 ministrator of the Maritime Administration.”.

7 (2) Section 1103(j) is amended by striking “In
8 guaranteeing and entering commitments to guar-
9 antee under this section,” and inserting “If the Sec-
10 retary or Administrator seeks a priority for a com-
11 mitment to guarantee under this section,”.

12 (3) Section 1104A(d) is amended—

13 (A) by striking “Secretary of Transpor-
14 tation” in paragraphs (1)(A) and (3)(B) and
15 inserting “Administrator”;

16 (B) by striking “the waiver” in paragraph
17 (4)(B) and inserting “if deemed necessary by
18 the Secretary or Administrator, the waiver”;

19 (C) by striking “the increased” in para-
20 graph (4)(B) and inserting “any significant in-
21 crease in”.

22 (4) Section 1104A(f) is amended—

23 (A) by striking “financial structures, or
24 other risk factors identified by the Secretary or
25 Administrator.” in paragraph (2), as amended

1 by subsection (a) of this section, and inserting
2 “or financial structures.”;

3 (B) by adding at the end of paragraph (2)
4 “The Secretary or Administrator shall not es-
5 tablish by rule, regulation, or procedure any re-
6 quirement for independent analysis that is, or is
7 intended to be, applied uniformly to loan guar-
8 antee applications without regard to such risk
9 factors.”;

10 (C) by striking “financial structures, or
11 other risk factors identified by the Secretary or
12 Administrator.” in paragraph (3), as amended
13 by subsection (a) of this section, and inserting
14 “or financial structures.”; and

15 (D) by adding at the end the following:
16 “(5) A third party independent analysis conducted
17 under paragraph (2) shall be performed by a private sector
18 expert in assessing such risk factors who is selected by
19 the Administrator. No Federal funds shall be expended to
20 conduct any review of any application under this title, or
21 any modification of an existing loan guarantee, by any
22 party that is not an expert in maritime finance or oper-
23 ations.”.

1 (5) Section 1104A(j)(2) is amended by striking
2 “The Secretary of Transportation” and inserting
3 “~~The Administrator~~”.

4 (6) Section 1104A(l) is amended by adding at
5 the end “The Administrator shall retain in the Mari-
6 time Administration adequate resources with suffi-
7 cient expertise to perform the functions prescribed
8 by this title so that no assistance from the Depart-
9 ment of Transportation or any other Federal agency
10 is required to carry out this title.”.

11 (7) Section 1104A(m) is amended by striking
12 the last sentence and inserting “If the Secretary or
13 Administrator has waived a requirement under sec-
14 tion 1104A(d), the loan agreement shall include re-
15 quirements for additional payments, collateral, or eq-
16 uity contributions to meet such waived requirement
17 upon the occurrence of verifiable conditions indi-
18 cating that the obligor’s financial condition enables
19 the obligor to meet the waived requirement.”.

20 (8) Section 1104A(n)(1) is amended by striking
21 “~~The Secretary of Transportation~~” and inserting
22 “~~The Administrator~~”.

23 (9) Section 1111 is amended—

1 (A) by striking “**SECRETARY OF**
2 **TRANSPORTATION**” in the section head-
3 ing and inserting “**ADMINISTRATOR**”;

4 (B) by striking “Secretary of Transpor-
5 tation” each place it appears and inserting
6 “Administrator”;

7 (c) CONFORMING CHANGES IN OTHER STATUTES.—

8 (1) Section 401(a) of the Ocean Shipping Re-
9 form Act of 1998 (46 U.S.C. App. 1273a(a)) is
10 amended by striking “Secretary of Transportation”
11 and inserting “Administrator of the Maritime Ad-
12 ministration”.

13 (2) Section 101 of Public Law 85-469 (46
14 U.S.C. 1280) is amended by inserting “or the Ad-
15 ministrator of the Maritime Administration” after
16 “Secretary”.

17 (3) Section 3527 of the Maritime Security Act
18 of 2003 (46 U.S.C. App. 1280b) is amended by
19 striking “Secretary of Transportation” and inserting
20 “the Administrator of the Maritime Administra-
21 tion”.

22 (4) Section 3528 of the Maritime Security Act
23 of 2003 (46 U.S.C. App. 1271 note) is repealed.

Calendar No. 295

109TH CONGRESS
1ST Session

S. 2029

[Report No. 109-183]

A BILL

To amend and enhance certain maritime programs of the Department of Transportation, and for other purposes.

NOVEMBER 17, 2005

Read twice and placed on the calendar