

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3262

To revitalize the international competitiveness of the United States-flag maritime industry through international tax parity, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 2001

Mr. OBERSTAR (for himself and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To revitalize the international competitiveness of the United States-flag maritime industry through international tax parity, 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.**

4 This Act may be cited as the “Merchant Marine Cost  
5 Parity Act of 2001”.

1 **TITLE I—INTERNATIONAL TAX**  
 2 **PARITY**

3 **SEC. 101. ELECTION TO DETERMINE TAXABLE INCOME**  
 4 **FROM CERTAIN INTERNATIONAL SHIPPING**  
 5 **ACTIVITIES USING PER TON RATE.**

6 (a) IN GENERAL.—Chapter 1 of the Internal Rev-  
 7 enue Code of 1986 is amended by inserting after sub-  
 8 chapter Q the following new subchapter:

9 **“Subchapter R—Election To Determine Tax-**  
 10 **able Income From Certain International**  
 11 **Shipping Activities Using per Ton Rate**

“Sec. 1352. Alternative tax on qualifying shipping activities.

“Sec. 1353. Taxable income from qualifying shipping activities.

“Sec. 1354. Qualifying shipping tax election; revocation; termi-  
 nation.

“Sec. 1355. Definitions and special rules.

“Sec. 1356. Qualifying shipping activities.

“Sec. 1357. Items not subject to regular tax; depreciation; inter-  
 est.

“Sec. 1358. Allocation of credits, income, and deductions.

“Sec. 1359. Disposition of qualifying shipping assets.

12 **“SEC. 1352. ALTERNATIVE TAX ON QUALIFYING SHIPPING**  
 13 **ACTIVITIES.**

14 “(a) IN GENERAL.—The taxable income of an elect-  
 15 ing corporation from qualifying shipping activities shall be  
 16 the amount determined under this subchapter, and the  
 17 corporate percentages of the items of income, gain, loss,  
 18 deduction, or credit of an electing corporation and of other  
 19 members of the electing group of such corporation which  
 20 would otherwise be taken into account by reason of its

1 qualifying shipping activities shall be taken into account  
2 to the extent provided in section 1357.

3 “(b) ALTERNATIVE TAX.—The taxable income of an  
4 electing corporation from qualifying shipping activities, if  
5 otherwise taxable under section 11, 882, or 887, shall be  
6 subject to tax only under this section at the maximum rate  
7 specified in section 11(b).

8 “(c) TRANSFERS TO FEDERAL VESSEL FINANCING  
9 FUND.—The Secretary of the Treasury shall transfer to  
10 the Federal Vessel Financing Fund created under title XI  
11 of the Merchant Marine Act, 1936, the taxes collected  
12 under subsection (b).

13 **“SEC. 1353. TAXABLE INCOME FROM QUALIFYING SHIPPING**  
14 **ACTIVITIES.**

15 “(a) IN GENERAL.—For purposes of this subchapter,  
16 the taxable income of an electing corporation from quali-  
17 fying shipping activities shall be its corporate income per-  
18 centage of the sum of the amounts determined under sub-  
19 section (b) for each qualifying vessel operated by such  
20 electing corporation or other electing entity.

21 “(b) AMOUNTS.—For purposes of subsection (a), the  
22 amount of taxable income of an electing entity for each  
23 qualifying vessel shall equal the product of—

1           “(1) the daily notional taxable income from the  
2           operation of the qualifying vessel in United States  
3           foreign trade, and

4           “(2) the number of days during the taxable  
5           year that the electing entity operated such vessel as  
6           a qualifying vessel in United States foreign trade.

7           “(c) DAILY NOTIONAL TAXABLE INCOME.—For pur-  
8           poses of subsection (b), the daily notional taxable income  
9           from the operation of a qualifying vessel is 40 cents for  
10          each 100 tons of the net tonnage of the vessel, up to  
11          25,000 net tons, and 20 cents for each 100 tons of the  
12          net tonnage of the vessel, in excess of 25,000 net tons.

13          “(d) MULTIPLE OPERATORS OF VESSEL.—If 2 or  
14          more persons have a joint interest in a qualifying vessel  
15          and are considered as operators of that vessel, the taxable  
16          income from the operation of such vessel for that time (as  
17          determined under this section) shall be allocated among  
18          such persons on the basis of their ownership and charter  
19          interests in such vessel or on such other basis as the Sec-  
20          retary may prescribe by regulations.

21          “(e) NONCORPORATE PERCENTAGE.—Notwith-  
22          standing any contrary provision of this subchapter, the  
23          nongovernmental percentage of any item of income, gain, loss,  
24          deduction, or credit of any member of an electing group

1 shall be taken into account for all purposes of this subtitle  
2 as if this subchapter were not in effect.

3 **“SEC. 1354. QUALIFYING SHIPPING TAX ELECTION; REV-**  
4 **OCATION; TERMINATION.**

5 “(a) IN GENERAL.—Except as provided in sub-  
6 sections (b) and (f), a qualifying shipping tax election may  
7 be made in respect of any qualifying entity.

8 “(b) CONDITION OF ELECTION.—An election may be  
9 made by a member of a controlled group under this sub-  
10 section for any taxable year only if all qualifying entities  
11 that are members of the controlled group join in the elec-  
12 tion.

13 “(c) WHEN MADE.—An election under subsection (a)  
14 may be made by a qualifying entity in such form as pre-  
15 scribed by the Secretary. Such election shall be filed with  
16 the qualifying entity’s return for the first taxable year to  
17 which the election shall apply, by the due date for such  
18 return (including any applicable extensions).

19 “(d) YEARS FOR WHICH EFFECTIVE.—An election  
20 under subsection (a) shall be effective for the taxable year  
21 of the qualifying entity for which it is made and for all  
22 succeeding taxable years of the entity, until such election  
23 is terminated under subsection (e).

24 “(e) TERMINATION.—

25 “(1) BY REVOCATION.—

1           “(A) IN GENERAL.—An election under  
2 subsection (a) may be terminated by revocation.

3           “(B) WHEN EFFECTIVE.—Except as pro-  
4 vided in subparagraph (C)—

5           “(i) a revocation made during the tax-  
6 able year and on or before the 15th day of  
7 the 3d month thereof shall be effective on  
8 the 1st day of such taxable year, and

9           “(ii) a revocation made during the  
10 taxable year but after such 15th day shall  
11 be effective on the 1st day of the following  
12 taxable year.

13           “(C) REVOCATION MAY SPECIFY PROSPEC-  
14 TIVE DATE.—If the revocation specifies a date  
15 for revocation which is on or after the day on  
16 which the revocation is made, the revocation  
17 shall be effective on and after the date so speci-  
18 fied.

19           “(2) BY ENTITY CEASING TO BE QUALIFYING  
20 ENTITY.—

21           “(A) IN GENERAL.—An election under  
22 subsection (a) shall be terminated whenever (at  
23 any time on or after the 1st day of the 1st tax-  
24 able year for which the entity is an electing en-

1           tity) such entity ceases to be a qualifying enti-  
2           ty.

3           “(B) WHEN EFFECTIVE.—Any termination  
4           under this paragraph shall be effective on and  
5           after the date of cessation.

6           “(f) ELECTION AFTER TERMINATION.—If a quali-  
7           fying entity has made an election under subsection (a) and  
8           if such election has been terminated under subsection (e),  
9           such entity (and any successor entity) shall not be eligible  
10          to make an election under subsection (a) for any taxable  
11          year before its 5th taxable year which begins after the 1st  
12          taxable year for which such termination is effective, unless  
13          the Secretary consents to such election.

14       **“SEC. 1355. DEFINITIONS AND SPECIAL RULES.**

15          “(a) DEFINITIONS.—For purposes of this sub-  
16          chapter:

17               “(1) The term ‘controlled group’ means any  
18               group of trusts and business entities whose members  
19               would be treated as a single employer under the  
20               rules of section 52(a) (without regard to paragraphs  
21               (1) and (2) thereof) and section 52(b)(1).

22               “(2) The term ‘corporate income percentage’  
23               means the least aggregate share, expressed as a per-  
24               centage, of any item of income or gain of an electing  
25               corporation or electing group of which such corpora-

1       tion is a member from qualifying shipping activities  
2       that would, but for an election in effect under this  
3       subchapter, be required to be reported on the Fed-  
4       eral income tax return of an electing corporation  
5       during any taxable period. In the case of an electing  
6       group which includes two or more electing corpora-  
7       tions, the corporate income percentage of each such  
8       corporation shall be determined on the basis of such  
9       corporations' direct and indirect ownership and  
10      charter interests in qualifying vessels of the electing  
11      group or on such other basis as the Secretary may  
12      prescribe by regulations.

13           “(3) The term ‘corporate loss percentage’  
14      means the greatest aggregate share, expressed as a  
15      percentage, of any item of loss, deduction or credit  
16      of an electing corporation or electing group of which  
17      such corporation is a member from qualifying ship-  
18      ping activities that would, but for an election in ef-  
19      fect under this subchapter, be required to be re-  
20      ported on the Federal income tax return of an elect-  
21      ing corporation during any taxable period.

22           “(4) The term ‘corporate percentages’ means  
23      the corporate income percentage and the corporate  
24      loss percentage.

1           “(5) The term ‘electing corporation’ means any  
2           C corporation that is an electing entity or that  
3           would, but for an election in effect under this sub-  
4           chapter, be required to report any item of income,  
5           gain, loss, deduction, or credit of an electing entity  
6           on its Federal income tax return.

7           “(6) The term ‘electing entity’ means any quali-  
8           fying entity for which an election is in effect under  
9           this subchapter.

10           “(7) The term ‘electing group’ means a con-  
11           trolled group of which one or more members is an  
12           electing entity.

13           “(8) The term ‘noncorporate percentage’ means  
14           the difference between one hundred percent and the  
15           corporate income percentage or corporate loss per-  
16           centage, as applicable.

17           “(9) The term ‘qualifying entity’ means a trust  
18           or business entity that—

19                   “(A) operates one or more qualifying ves-  
20                   sels, and

21                   “(B) meets the shipping activity require-  
22                   ment in subsection (c).

23           “(10) The term ‘qualifying shipping assets’  
24           means any qualifying vessel and other assets which

1 are used in core qualifying activities as described in  
2 section 1356(b).

3 “(11) The term ‘qualifying vessel’ means a self-  
4 propelled (or a combination self-propelled and non-  
5 self-propelled) United States flag vessel of not less  
6 than 10,000 deadweight tons used in the United  
7 States foreign trade.

8 “(12) The term ‘United States domestic trade’  
9 means the transportation of goods or passengers be-  
10 tween places in the United States.

11 “(13) The term ‘United States flag vessel’  
12 means any vessel documented under the laws of the  
13 United States.

14 “(14) The term ‘United States foreign trade’  
15 means the transportation of goods or passengers be-  
16 tween a place in the United States and a foreign  
17 place or between foreign places.

18 “(b) OPERATING A VESSEL.—For purposes of this  
19 subchapter:

20 “(1) Except as provided in paragraph (2), an  
21 entity is treated as operating any vessel owned by,  
22 or chartered (including a time charter) to, the enti-  
23 ty.

24 “(2) An entity is treated as operating a vessel  
25 that it has chartered out on bareboat charter terms

1       only if the vessel is temporarily surplus to the enti-  
2       ty's requirements and the term of the charter does  
3       not exceed three years.

4       “(c) SHIPPING ACTIVITY REQUIREMENT.—For pur-  
5       poses of this section, the shipping activity requirement is  
6       met for a taxable year only by an entity described in para-  
7       graph (1), (2), or (3).

8               “(1) An entity in the first taxable year of its  
9       qualifying shipping tax election if, for the preceding  
10      taxable year, the test in paragraph (4) is met.

11              “(2) An entity in the second or any subsequent  
12      taxable year of its qualifying shipping tax election if,  
13      for each of the two preceding taxable years, the test  
14      in paragraph (4) is met.

15              “(3) An entity that would be described in para-  
16      graph (1) or (2) if the test in paragraph (4) were  
17      applied on an aggregate basis to the controlled  
18      group of which such entity is a member, and vessel  
19      charters between members of the controlled group  
20      were disregarded.

21              “(4) The test in this paragraph is met if on av-  
22      erage at least 10 percent of the aggregate tonnage  
23      of qualifying vessels operated by the entity were  
24      owned by the entity or chartered to the entity on  
25      bareboat charter terms. For purposes of the pre-

1 ceding sentence, vessels chartered to an entity by a  
2 member of a controlled group which includes the en-  
3 tity shall be treated as chartered to the entity on  
4 bareboat charter terms.

5 “(d) EFFECT OF TEMPORARILY CEASING TO OPER-  
6 ATE A QUALIFYING VESSEL.—

7 “(1) A temporary cessation by an electing enti-  
8 ty in operation of a qualifying vessel shall be dis-  
9 regarded for purposes of subsections (b) and (c)  
10 until an occurrence described in paragraph (3) if the  
11 electing entity gives timely notice to the Secretary  
12 stating—

13 “(A) that it has temporarily ceased to op-  
14 erate the qualifying vessel, and

15 “(B) its intention to resume operating the  
16 qualifying vessel.

17 “(2) Notice shall be deemed timely if given not  
18 later than the due date (including extensions) for  
19 the electing entity’s tax return (as set forth in sec-  
20 tion 6072(b)) for the taxable year in which the tem-  
21 porary cessation begins.

22 “(3) The disregard provided by paragraph (1)  
23 continues until the earlier to occur of—

1           “(A) the electing entity abandoning its in-  
2           tention to resume operation of the qualifying  
3           vessel, or

4           “(B) the electing entity resuming operation  
5           of the qualifying vessel.

6           “(e) EFFECT OF TEMPORARILY OPERATING A  
7           QUALIFYING VESSEL IN THE UNITED STATES DOMESTIC  
8           TRADE.—

9           “(1) The temporary operation in the United  
10          States domestic trade of any qualifying vessel which  
11          had been used in the United States foreign trade  
12          shall be disregarded for purposes of this subchapter  
13          until an occurrence described in paragraph (3) if the  
14          electing entity gives timely notice to the Secretary  
15          stating—

16                 “(A) that it temporarily operates or has  
17                 operated in the United States domestic trade a  
18                 qualifying vessel which had been used in the  
19                 United States foreign trade, and

20                 “(B) its intention to resume operation of  
21                 the vessel in the United States foreign trade.

22           “(2) Notice shall be deemed timely if given not  
23          later than the due date (including extensions) for  
24          the electing entity’s tax return (as set forth in sec-

1       tion 6072(b)) for the taxable year in which the tem-  
2       porary cessation begins.

3               “(3) The disregard provided by paragraph (1)  
4       continues until the earlier to occur of—

5                       “(A) the electing entity abandoning its in-  
6       tention to resume operations of the vessel in the  
7       United States foreign trade, or

8                       “(B) the electing entity resuming operation  
9       of the vessel in the United States foreign trade.

10       “(f) EFFECT OF CHANGE IN USE.—

11               “(1) Except as provided in subsection (e), a  
12       vessel that is used other than for operations in the  
13       United States foreign trade on other than a tem-  
14       porary basis ceases to be a qualifying vessel when  
15       such use begins.

16               “(2) For purposes of this subsection, a change  
17       in use of a vessel, other than a commencement of  
18       operation in the United States domestic trade, is  
19       taken to be permanent unless there are cir-  
20       cumstances indicating that it is temporary.

21       “(g) REGULATIONS.—The Secretary shall prescribe  
22       such regulations as may be necessary or appropriate to  
23       carry out the purposes of this section.

1 **“SEC. 1356. QUALIFYING SHIPPING ACTIVITIES.**

2 “(a) QUALIFYING SHIPPING ACTIVITIES.—For pur-  
3 poses of this subchapter the ‘qualifying shipping activities’  
4 of an electing entity consist of—

5 “(1) its core qualifying activities,

6 “(2) its qualifying secondary activities, and

7 “(3) its qualifying incidental activities.

8 “(b) CORE QUALIFYING ACTIVITIES.—

9 “(1) The ‘core qualifying activities’ of an elect-  
10 ing entity are its—

11 “(A) activities in operating qualifying ves-  
12 sels in United States foreign trade, and

13 “(B) other vessel-related activities of the  
14 electing entity and other members of its electing  
15 group that are a necessary and integral part of  
16 its business of operating qualifying vessels in  
17 United States foreign trade, including owner-  
18 ship and operation of barges and containers  
19 that are the complement of a qualifying vessel  
20 and terminal facilities.

21 “(2) ‘Core qualifying activities’ do not include  
22 the provision by an entity of facilities or services to  
23 any person other than another member of such enti-  
24 ty’s electing group.

25 “(c) QUALIFYING SECONDARY ACTIVITIES.—For  
26 purposes of this subsection—

1           “(1) the term ‘secondary activities’ means the  
2 active management or operation of vessels in the  
3 United States foreign trade and such other activities  
4 as may be prescribed by the Secretary pursuant to  
5 regulations, and

6           “(2) the term ‘qualified secondary activities’  
7 means the secondary activities of an electing entity,  
8 but only to the extent that, without regard to this  
9 subchapter, the gross income derived by such entity  
10 from such activities does not exceed 20 percent of  
11 the gross income derived by such entity from its core  
12 qualifying activities.

13           “(d) QUALIFYING INCIDENTAL ACTIVITIES.—Ship-  
14 ping-related activities carried on by an electing entity are  
15 qualified incidental activities if—

16           “(1) they are incidental to its core qualifying  
17 activities,

18           “(2) they are not qualifying secondary activi-  
19 ties, and

20           “(3) without regard to this subchapter, the  
21 gross income derived by such entity from such activi-  
22 ties does not exceed 0.1 percent of the entity’s gross  
23 income from its core qualifying activities.

1 **“SEC. 1357. ITEMS NOT SUBJECT TO REGULAR TAX; DEPRE-**  
2 **CIATION; INTEREST.**

3 “(a) **EXCLUSION FROM GROSS INCOME.**—Gross in-  
4 come of an electing entity shall not include the corporate  
5 income percentage of—

6 “(1) its income from qualifying shipping activi-  
7 ties in the United States foreign trade,

8 “(2) its income from money, bank deposits and  
9 other temporary investments which are reasonably  
10 necessary to meet the working capital requirements  
11 of its qualifying shipping activities, and

12 “(3) its income from money or other intangible  
13 assets accumulated pursuant to a plan to purchase  
14 qualifying shipping assets.

15 “(b) **ELECTING GROUP MEMBER.**—Gross income of  
16 a member of an electing group that is not an electing enti-  
17 ty shall not include the corporate income percentage of  
18 its income from qualifying shipping activities that are  
19 taken into account under this subchapter as qualifying  
20 shipping activities of an electing entity.

21 “(c) **DENIAL OF LOSSES, DEDUCTIONS, AND CRED-**  
22 **ITS.**—

23 “(1) **GENERAL RULE.**—Subject to paragraph  
24 (2), the corporate loss percentage of each item of  
25 loss, deduction (other than for interest expense), or  
26 credit of any taxpayer with respect to any activity

1 the income from which is excluded from gross in-  
2 come under this section shall be disallowed.

3 “(2) DEPRECIATION.—Notwithstanding para-  
4 graph (1), an owner but not operator of qualifying  
5 shipping assets shall be allowed the deduction for de-  
6 preciation.

7 “(A) Except as provided in subparagraph  
8 (B), the straight line method of depreciation  
9 shall apply to the corporate income percentage  
10 of qualifying shipping assets the income from  
11 operation of which is excluded from gross in-  
12 come under this section.

13 “(B) Subparagraph (A) shall not apply to  
14 any qualifying shipping asset which is subject  
15 to a charter entered into prior to the effective  
16 date of this subchapter.

17 “(3) INTEREST.—The corporate loss percentage  
18 of an electing entity’s interest expense shall be dis-  
19 allowed in the ratio that the fair market value of its  
20 qualifying vessel assets bears to the fair market  
21 value of its total assets.

22 **“SEC. 1358. ALLOCATION OF CREDITS, INCOME, AND DE-**  
23 **DUCTIONS.**

24 “(a) QUALIFYING SHIPPING ACTIVITIES.—For pur-  
25 poses of this chapter the qualifying shipping activities of

1 an electing entity shall be treated as a separate trade or  
2 business activity distinct from all other activities con-  
3 ducted by the entity.

4 “(b) EXCLUSION OF CREDITS OR DEDUCTIONS.—

5 “(1) No deduction shall be allowed against the  
6 taxable income of an electing corporation from quali-  
7 fying shipping activities, and no credit shall be al-  
8 lowed against the tax imposed by section 1352(b).

9 “(2) No deduction shall be allowed for any net  
10 operating loss attributable to the qualifying shipping  
11 activities of a corporation to the extent that such  
12 loss is carried forward by the corporation from a  
13 taxable year preceding the first taxable year for  
14 which such corporation was an electing corporation.

15 “(c) TRANSACTIONS NOT AT ARM’S LENGTH.—Sec-  
16 tion 482 applies in accordance with this subsection to a  
17 transaction or series of transactions—

18 “(1) as between an electing entity and another  
19 person, or

20 “(2) as between an entity’s qualifying shipping  
21 activities and other activities carried on by it.

22 **“SEC. 1359. DISPOSITION OF QUALIFYING SHIPPING AS-**  
23 **SETS.**

24 “(a) IN GENERAL.—If an electing entity sells or dis-  
25 poses of qualifying shipping assets (as defined in sub-

1 section (c)) in an otherwise taxable transaction, at the  
2 election of the entity no gain shall be recognized if replace-  
3 ment qualifying shipping assets are acquired during the  
4 period specified in subsection (b), except to the extent that  
5 the amount realized upon such sale or disposition exceeds  
6 the cost of the replacement qualifying shipping assets.

7 “(b) PERIOD WITHIN WHICH PROPERTY MUST BE  
8 REPLACED.—The period referred to in subsection (a) shall  
9 be the period beginning one year prior to the disposition  
10 of the qualifying shipping assets and ending—

11 “(1) 3 years after the close of the first taxable  
12 year in which the gain is realized, or

13 “(2) subject to such terms and conditions as  
14 may be specified by the Secretary, on such later date  
15 as the Secretary may designate on application by the  
16 taxpayer. Such application shall be made at such  
17 time and in such manner as the Secretary may by  
18 regulations prescribe.

19 “(c) TIME FOR ASSESSMENT OF DEFICIENCY AT-  
20 TRIBUTABLE TO GAIN.—If an electing entity has made the  
21 election provided in subsection (a), then—

22 “(1) the statutory period for the assessment of  
23 any deficiency, for any taxable year in which any  
24 part of the gain is realized, attributable to such gain  
25 shall not expire prior to the expiration of 3 years

1 from the date the Secretary is notified by the entity  
2 (in such manner as the Secretary may by regulations  
3 prescribe) of the replacement tonnage tax property  
4 or of an intention not to replace, and

5 “(2) such deficiency may be assessed before the  
6 expiration of such 3-year period notwithstanding the  
7 provisions of section 6212(c) or the provisions of any  
8 other law or rule of law which would otherwise pre-  
9 vent such assessment.

10 “(d) BASIS OF REPLACEMENT QUALIFYING SHIP-  
11 PING ASSETS.—In the case of replacement qualifying ship-  
12 ping assets purchased by an electing entity which resulted  
13 in the nonrecognition of any part of the gain realized as  
14 the result of a sale or other disposition of qualifying ship-  
15 ping assets, the basis shall be the cost of such property  
16 decreased in the amount of the gain not so recognized;  
17 and if the property purchased consists of more than one  
18 piece of property, the basis determined under this sentence  
19 shall be allocated to the purchased properties in propor-  
20 tion to their respective costs.

21 “(e) REPLACEMENT QUALIFYING SHIPPING ASSETS  
22 MUST BE ACQUIRED FROM UNRELATED PERSON IN CER-  
23 TAIN CASES.—

24 “(1) IN GENERAL.—Subsection (a) shall not  
25 apply if the replacement qualifying shipping assets

1 are acquired from a related person except to the ex-  
2 tent that the related person acquired the replace-  
3 ment qualifying shipping assets from an unrelated  
4 person during the period applicable under subsection  
5 (b).

6 “(2) RELATED PERSON.—For purposes of this  
7 subsection, a person is related to another person if  
8 the person bears a relationship to the other person  
9 described in section 267(b) or 707(b)(1).”

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
11 The second sentence of section 56(g)(4)(B)(i) is amended  
12 by striking “or under section 114.” and inserting “, under  
13 section 114 or under section 1357.”

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to taxable years beginning after  
16 the date of the enactment of this Act.

17 **SEC. 102. INCOME OF MERCHANT SEAMAN EXCLUDABLE**  
18 **FROM GROSS INCOME AS FOREIGN EARNED**  
19 **INCOME.**

20 (a) SECTION 911 EXCLUSION.—Section 911(d) of the  
21 Internal Revenue Code of 1986 (relating to citizens or  
22 residents of the United States living abroad) is amended  
23 by redesignating paragraph (9) as paragraph (10) and by  
24 inserting after paragraph (8) the following:

1           “(9) APPLICATION TO CERTAIN MERCHANT MA-  
2 RINE CREWS.—In applying this section to an indi-  
3 vidual who is a citizen or resident of the United  
4 States and who is employed for a minimum of 90  
5 days during a taxable year as a regular member of  
6 the crew of a qualified vessel (as defined in section  
7 1355)—

8           “(A) the individual shall be treated as a  
9 qualified individual without regard to the re-  
10 quirements of paragraph (1), and

11           “(B) any earned income attributable to  
12 services performed by that individual so em-  
13 ployed on such a vessel while it is engaged in  
14 transportation between the United States and a  
15 foreign country or possession of the United  
16 States shall be treated (except as provided by  
17 subsection (b)(1)(B)) as foreign earned income  
18 regardless of where payments of such income  
19 are made.”

20           (b) EFFECTIVE DATE.—The amendment made by  
21 this section shall apply to taxable years beginning after  
22 the date of the enactment of this Act.

1           **TITLE II—INSPECTION AND**  
2                           **INSURANCE PARITY**

3   **SEC. 201. CERTIFICATE OF INSPECTION.**

4           Section 3309 of title 46, United States Code, is  
5 amended by adding at the end the following:

6           “(d) CERTIFICATE OF INSPECTION.—

7                   “(1) IN GENERAL.—A qualified vessel (as de-  
8 fined in section 1355 of the Internal Revenue Code  
9 of 1986) shall be eligible for a certificate of inspec-  
10 tion if the Secretary determines that—

11                   “(A) the vessel is classed by and designed in ac-  
12 cordance with the rules of the American Bureau of  
13 Shipping or another classification society accepted  
14 by the Secretary;

15                   “(B) the vessel complies with applicable inter-  
16 national agreements and associated guidelines, as  
17 determined by the country in which the vessel was  
18 documented immediately before becoming a docu-  
19 mented vessel (as defined in that section); and

20                   “(C) that country has not been identified by the  
21 Secretary as inadequately enforcing international  
22 vessel regulations as to that vessel.

23                   “(2) CONTINUED ELIGIBILITY FOR CERTIFI-  
24 CATE.—Paragraph (1) does not apply to a vessel  
25 after any date on which the vessel fails to comply

1 with the applicable international agreements and as-  
2 sociated guidelines referred to in paragraph (1)(B).”

3 **SEC. 202. AGREEMENTS REGARDING INJURY OR DEATH OF**  
4 **CREW.**

5 (a) AGREEMENTS.—Notwithstanding the Death on  
6 the High Seas Act (46 U.S.C. App. 761 et seq.) or any  
7 other provision of law (other than subsection (b)), includ-  
8 ing general maritime law—

9 (1) the operator of a qualified vessel (as defined  
10 in section 1355 of the Internal Revenue Code of  
11 1986) and the operating crew of such a vessel may  
12 agree to any mutually-acceptable system limiting or  
13 otherwise controlling liability and damages from  
14 death or injury of a crew member; and

15 (2) the terms of any such agreement shall take  
16 precedence over, and apply in lieu of, any otherwise  
17 applicable provision of any law of the United States  
18 with respect to the liability of the owner, employer,  
19 and operator, and damages, for such injury or  
20 death.

21 (b) EVIDENCE OF FINANCIAL RESPONSIBILITY RE-  
22 QUIRED.—Subsection (a)(2) shall not apply to an agree-  
23 ment under subsection (a)(1) unless the owner or oper-  
24 ation of the vessel to which the agreement relates has in-  
25 surance or other evidence of financial responsibility that

1 has been approved by the Secretary of Transportation to  
2 provide for compensation in accordance with the agree-  
3 ment for death or injury of seamen engaged on the vessel.

○