To amend title 46, United States Code, to make technical corrections with respect to ocean shipping authorities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. JOHNSON of South Dakota introduced the following bill; which was referred to the Committee on ______________________

A BILL

To amend title 46, United States Code, to make technical corrections with respect to ocean shipping authorities, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ocean Shipping Reform Implementation Act of 2023”.

SEC. 2. PURPOSES.

Section 40101 of title 46, United States Code, is amended—
(1) in paragraph (1) by striking “with” and all that follows through “regulatory costs”;

(2) in paragraph (2) by striking “in the ocean commerce of the United States” and inserting “for the common carriage of goods by water in the foreign commerce of the United States”;

(3) in paragraph (3) by striking “and” at the end;

(4) in paragraph (4)—

(A) by striking “promote” and inserting “support”;

(B) by striking “, and” and all that follows through the period and inserting “; and”; and

(5) by adding at the end the following:

“(5) promote reciprocal trade in the common carriage of goods by water in the foreign commerce of the United States.”.

SEC. 3. DEFINITIONS.

(a) In General.—Section 40102(9) of title 46, United States Code, is amended—

(1) in subparagraph (A) by striking “or” at the end;

(2) in subparagraph (B) by striking the period and inserting “; or”; and

(3) by adding at the end the following:
“(C) owned or controlled by, a subsidiary
of, or otherwise related legally or financially
(other than a minority relationship or invest-
ment) to a corporation based in a country—

“(i) identified as a nonmarket econ-
omy country (as defined in section 771(18)
of the Tariff Act of 1930 (19 U.S.C.
1677(18))) as of the date of enactment of
this paragraph;

“(ii) identified by the United States
Trade Representative in the most recent
report required by section 182 of the
Trade Act of 1974 (19 U.S.C. 2242) as a
priority foreign country under subsection
(a)(2) of that section; or

“(iii) subject to monitoring by the
United States Trade Representative under
section 306 of the Trade Act of 1974 (19
U.S.C. 2416).”.

(b) CONFORMING AMENDMENT.—Section
46106(b)(7) of title 46, United States Code, is amended
by striking “controlled carriers” and all that follows
through the period at the end and inserting “controlled
carriers.”.
SEC. 4. SERVICE CONTRACTS.
Section 40502(e)(9) of title 46, United States Code, is amended by inserting “and minimum contract requirements” after “essential terms”.

SEC. 5. COMPLAINTS AGAINST SHIPPING EXCHANGES.
(a) IN GENERAL.—Chapter 405 of title 46, United States Code, is amended by adding at the end the following:

“§ 40505. Complaints against shipping exchanges

(a) IN GENERAL.—A person may submit to the Federal Maritime Commission, and the Commission shall accept, information concerning—

“(1) alleged violations by shipping exchanges (as such term is defined in section 40504);

“(2) alleged violations of regulations issued by the Commission; or

“(3) alleged incidents of market manipulation or other anticompetitive practices by such shipping exchanges.

“(b) INVESTIGATION.—Upon receipt of a submission of information under subsection (a), the Commission shall promptly investigate the accuracy of such information.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 405 of title 46, United States Code, is amended by adding at the end the following:

“40505. Complaints against shipping exchanges.”.
SEC. 6. DATA COLLECTION.

Section 41110 of title 46, United States Code, is amended—

(1) by striking “The Federal Maritime Commission” and inserting “(a) QUARTERLY REPORT.—The Federal Maritime Commission”; and

(2) by adding at the end the following:

“(b) PROHIBITION ON DUPLICATION.—Data required to be reported under subsection (a) may not duplicate information—

“(1) submitted to the Corps of Engineers pursuant to section 11 of the Act entitled ‘An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes’, approved September 22, 1922 (33 U.S.C. 555), by an ocean common carrier acting as a vessel operator; or

“(2) submitted pursuant to section 481 of the Tariff Act of 1930 (19 U.S.C. 1481) to U.S. Customs and Border Protection by merchandise importers.”.

SEC. 7. NATIONAL ADVISORY COMMITTEES.

(a) NATIONAL SHIPPER ADVISORY COMMITTEE.—

Section 42502 of title 46, United States Code, is amended—
(1) in subsection (a) by striking “Committee.” and inserting “(in this section referred to as the ‘Shipper Committee’).”;

(2) in subsections (b) and (c) by striking “Committee” each place it appears and inserting “Shipper Committee”; and

(3) in subsection (e)(3)—

(A) in subparagraph (A) by inserting “, including ocean transportation intermediaries (as such term is defined in section 40102)” after “ocean common carriers”; and

(B) in subparagraph (B) by striking “ocean common carriers” and inserting “ocean common carriers described in subparagraph (A)”.

(b) NATIONAL SEAPORT ADVISORY COMMITTEE.—

Chapter 425 of title 46, United States Code, is amended—

(1) by redesignating section 42503 as section 42504; and

(2) by inserting after section 42502 the following:

“§42503. National Seaport Advisory Committee

“(a) ESTABLISHMENT.—There is established a National Seaport Advisory Committee (in this section referred to as the ‘Seaport Committee’).
“(b) FUNCTION.—The Seaport Committee shall advise the Federal Maritime Commission on policies relating to the competitiveness, reliability, and efficiency of the international ocean freight delivery system.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—The Seaport Committee shall consist of 24 members appointed by the Commission in accordance with this section.

“(2) EXPERTISE.—Each member of the Seaport Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Seaport Committee.

“(3) REPRESENTATION.—Members of the Seaport Committee shall be appointed as follows:

“(A) Eight members shall represent marine terminal operators, as defined in section 40102.

“(B) Sixteen members shall represent port authorities.”.

(e) CONFORMING AMENDMENTS.—

(1) DEFINITIONS.—Section 42501 of title 46, United States Code, is amended by striking paragraph (2) and inserting the following:

“(2) COVERED COMMITTEE.—The term ‘covered Committee’ means—
“(A) the National Shipper Advisory Committee established under section 42502; and

“(B) the National Seaport Advisory Committee established under section 42503.”.

(2) ADMINISTRATION.—Section 42504 of title 46, United States Code, as redesignated by subsection (b)(1), is amended—

(A) by striking “The Committee” each place it appears and inserting “Each covered Committee”;

(B) in subsection (a) by striking “the Committee” each place it appears and inserting “each such Committee”;

(C) in subsections (b), (c), (d), (e), (f), and (j) by striking “the Committee” each place it appears and inserting “a covered Committee”;

(D) in subsection (h)—

(i) in paragraph (1)—

(I) by striking “Chair of the Committee” and inserting “Chair of each covered Committee”; and

(II) by striking “function of the Committee” and inserting “function of the applicable Committee”; and
(ii) in paragraph (2) by striking “the Committee” and inserting “each covered Committee”; and

(E) in subsection (i)—

(i) in paragraph (1) by striking “the Committee if the function of the Committee” and inserting “any relevant covered Committee if the function of such Committee”;

(ii) in paragraph (2) by striking “the Committee” and inserting “each such Committee”;

(iii) in paragraph (3)—

(I) by striking “from the Committee” and inserting “from a covered Committee”; and

(II) in subparagraph (B) by striking “to the Committee” and inserting “to the submitting Committee”; and

(iv) in paragraph (4) by striking “from the Committee” and inserting “from a covered Committee”. 
SEC. 8. ANNUAL REPORT AND PUBLIC DISCLOSURES.

(a) REPORT ON FOREIGN LAWS AND PRACTICES.—

Section 46106(b) of title 46, United States Code, is amended—

(1) in paragraph (6)—

(A) by striking “and” at the end; and

(B) by striking “under this part” and inserting “under chapter 403”;

(2) in paragraph (7)—

(A) by inserting “anticompetitive, non-reciprocal trade, or” before “otherwise concerning practices”;

(B) by inserting “or marine terminal operators” after “ocean common carriers”; and

(C) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(8) an analysis of any trade imbalance resulting from the business practices of ocean common carriers, including an analysis of the data collected under section 41110; and

“(9) the findings and results of the Vessel-Operating Common Carrier Audit Program established by the Commission on July 18, 2021, pursuant to the Commission rule interpreting section 41102(c).”.
(b) PUBLIC DISCLOSURE.—Section 46106(d)(2) of title 46, United States Code, is amended by inserting “or marine terminal operator” after “common carrier”.

SEC. 9. POLICY WITH RESPECT TO LOGINK.

(a) IN GENERAL.—Chapter 503 of title 46, United States Code, is amended by adding at the end the following:

“§ 50309. Prohibited use

“(a) IN GENERAL.—A covered port authority shall not utilize—

“(1) the national transportation logistics public information platform (commonly referred to as ‘LOGINK’) provided by the People’s Republic of China; or

“(2) a similar system provided by Chinese state-affiliated entities.

“(b) GUIDANCE.—The Secretary of Transportation shall publish on the website of the Department of Transportation, and update regularly, a list of prohibited logistics information technologies provided by the People’s Republic of China or Chinese state-affiliated entities.

“(c) CONSULTATION.—The Secretary shall consult with the United States-China Economic and Security Review Commission established under section 1238 of the Floyd D. Spence National Defense Authorization Act for
Fiscal Year 2001 (Public Law 106–398) in carrying out this section.

“(d) REVIEW.—In preparing the guidance under subsection (b), the Secretary shall review the list of Chinese state-affiliated entities included in—

“(1) the list of Communist Chinese military companies published in the Federal Register pursuant to section 1237(b) of the National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1201 note); and

“(2) the most recent ‘Non-SDN Chinese Military-Industrial Complex Companies List’ published by the Secretary of the Treasury pursuant to Executive Order 14032 of June 3, 2021 (86 Fed. Reg. 30145; relating to Addressing the Threat From Securities Investments That Finance Certain Companies of the People’s Republic of China).

“(e) COVERED PORT AUTHORITY DEFINED.—In this section, the term ‘covered port authority’ means a port authority that receives funding after the date of enactment of this section under—

“(1) the port infrastructure development program under subsections (a) and (b) of section 54301; or
“(2) the maritime transportation system emergency relief program under section 50308.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 503 of title 46, United States Code, is amended by adding at the end the following:

“50309. Policy with Respect to LOGINK.”.

SEC. 10. MARINE TERMINAL AND DWELL TIME STATISTICS.

(a) IN GENERAL.—Chapter 63 of title 49, United States Code, is amended by adding at the end the following:

“§ 6315. Marine terminal and dwell time statistics

“(a) DEFINITIONS.—In this section:

“(1) DIRECTOR.—The term ‘Director’ means the Director of the Bureau of Transportation Statistics.

“(2) MARINE CONTAINER.—The term ‘marine container’ means an intermodal container with a length of—

“(A) not less than 20 feet; and

“(B) not greater than 53 feet.

“(3) MARINE TERMINAL OPERATOR; OCEAN COMMON CARRIER.—The terms ‘marine terminal operator’ and ‘ocean common carrier’ have the meaning given such terms in section 40102 of title 46.

“(4) OUT OF SERVICE PERCENTAGE.—The term ‘out of service percentage’ means the propor-
tion of the chassis fleet for any defined geographical area that is out of service at any one time.

“(5) STREET DWELL TIME.—The term ‘street dwell time’, with respect to a piece of equipment, means the quantity of time during which the piece of equipment is in use outside of the terminal.

“(b) AUTHORITY TO COLLECT DATA.—

“(1) IN GENERAL.—The Director shall collect such data as the Director determines to be necessary for the implementation of this section, subject to subchapter III of chapter 35 of title 44 from—

“(A) each port, marine terminal operator, and ocean common carrier; and

“(B) each chassis owner or provider with a fleet of over 50 chassis that supply chassis for a fee.

“(2) APPROVAL BY OMB.—Not later than 60 days after the date of enactment of this section, the Director of the Office of Management and Budget shall approve an information collection for purposes of this section.

“(c) PUBLICATION.—Not later than 240 days after the date of enactment of this section, and not less frequently than monthly thereafter, the Director shall publish statistics relating to—
“(1) the dwell time of equipment used in intermodal transportation at the top 25 ports, including inland ports, by 20-foot equivalent unit, including—

“(A) total street dwell time, from all causes, of marine containers and marine container chassis; and

“(B) the average out of service percentage, which shall not be identifiable with any particular port, marine terminal operator, or chassis provider; and

“(2) for each port—

“(A) the yard capacity for marine containers;

“(B) the yard utilization by marine containers;

“(C) the berthing schedule and windows;

“(D) the total number of marine containers leaving (commonly referred to as ‘gate-out’);

“(E) the total number of marine containers entering (commonly referred to as ‘gate-in’);

“(F) the total number of marine containers unloaded daily from vessels;
“(G) the total number of marine containers loaded daily from vessels; and

“(H) the average turn time for a commercial motor vehicle (as defined in section 13102) operated by a motor carrier (as defined in such section).

“(d) FACTORS.—To the maximum extent practicable, the Director shall publish the statistics described in subsection (c) on a local, regional, and national basis.”.

(b) RULEMAKING TO DEFINE TURN TIME.—

(1) DEADLINE.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall promulgate an advance notice of proposed rulemaking to define turn time and specify the methods for collecting and reporting information relating to average dwell time to the Bureau of Transportation Statistics under section 6315 of title 49, United States Code.

(2) CONTENT.—The rulemaking under paragraph (1)—

(A) shall address the amount of time a commercial motor vehicle operated by a motor carrier spends waiting in line outside the gate of a port; and
(B) may address the ability of a port to collect dwell times from operators of commercial motor vehicles operated by motor carriers, including from motor carrier telematic capabilities.

(b) CLERICAL AMENDMENT.—The analysis for chapter 63 of title 49, United States Code, is amended by adding at the end the following:

“6315. Marine terminal and dwell time statistics.”.

e) REPEAL.—Section 16 of the Ocean Shipping Reform Act of 2022 (Public Law 117–146) is repealed.

SEC. 11. CONTAINERIZED FREIGHT INDEXES.

Not later than 1 year after the date of enactment of this Act, the Federal Maritime Commission shall promulgate an advance notice of proposed rulemaking on price indexes for containerized ocean freight for shippers (as such term is defined in section 40102 of title 46, United States Code) in the United States published by a shipping exchange registered under section 40504 of title 46, United States Code.

SEC. 12. DATA STANDARD FOR MARITIME FREIGHT LOGISTICS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Maritime Commission shall promulgate an advance notice of proposed rulemaking on a data standard for maritime freight logis-
ties and ocean transportation in the foreign commerce of
the United States.

(b) CONSULTATION.—During the public comment pe-
riod for the rulemaking under subsection (a), the Commis-
sion shall consult with—

(1) the National Shippers Advisory Board es-
established under section 42502 of title 46, United
States Code; and

(2) the Secretaries of Transportation, Com-
merce, and Agriculture.

(c) CONTENTS.—The rulemaking under subsection
(a) shall—

(1) develop a data standard for the voluntary
sharing of appropriate supply chain data with—

(A) a common lexicon of standard terms
and methods of measurements;

(B) a method to exchange data in real
time amongst relevant stakeholders;

(C) appropriate data protections to ensure
confidentiality of proprietary business informa-
tion; and

(D) appropriate cybersecurity measures to
protect data from unauthorized use;

(2) incorporate data from stakeholders to facili-
tate—
(A) the arrival, unloading, loading, and departure of vessels;

(B) cargo availability and pick up reservation;

(C) chassis availability; and

(D) other data elements the Commission consider prudent; and

(3) consider relevant data standards used or under development within the private sector and whether to adopt or otherwise incorporate such standards into the rule finalized under this subsection, with priority given to standards that—

(A) are developed in open, transparent, impartial, balanced, consensus-based processes;

(B) are performance-based, technology neutral, and vendor neutral;

(C) are interoperable, allowing for the exchange and use of data between devices and systems;

(D) are market relevant and globally applicable;

(E) are nonduplicative of, and coherent with, other relevant standards, guides, best practices, and frameworks; and
(F) allow information owners to control what information is shared, when information is shared, with whom, and for what purpose; and

(4) be consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113; 15 U.S.C. 272 note) including any standard for the voluntary sharing of appropriate supply chain data developed thereunder.

(d) Third-Party Agreement.—The Commission may enter into an agreement with 1 or more appropriate independent entities based in the United States that operate as voluntary consensus standards setting organizations as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119, published in the Federal Register on January 27, 2016 (81 Fed. Reg. 4673) to develop the data standard for maritime freight logistics and ocean transportation in the foreign commerce of the United States for the rulemaking under subsection (a) and for procurement or other relevant programmatic activities, consistent with the requirements of this section.

(e) Grant Criterion.—If the rulemaking under subsection (a) is finalized, the Secretary of Transportation may require a covered port authority to adopt any data
standard issued pursuant to this section for relevant operational use cases, as determined by the Secretary.

(f) **Definition of Covered Port Authority.**—In this section, the term “covered port authority” means a port authority that receives funding after the date on which a rule is finalized under this section under—

(1) the port infrastructure development program under section 54301(a) of title 46, United States Code; or

(2) the maritime transportation system emergency relief program under section 50308 of title 46, United States Code.

(g) **Rule of Construction.**—Nothing in this section shall be construed to require the Commission to develop a data standard that violates the confidentiality and disclosure policies established under subchapter III of chapter 35 of title 44, United States Code.

**SEC. 13. INDEPENDENT STUDY AND REPORT ON SHANGHAI SHIPPING EXCHANGE.**

(a) **Study.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall enter into an agreement with an appropriate independent entity described in subsection (d) to conduct a study and assessment of the business practices of the Shanghai Shipping Exchange, including—
(1) any anticompetitive advantages benefitting
the Shanghai Shipping Exchange; and

(2) the ability of the Ministry of Transport of
the People’s Republic of China and the Shanghai
Shipping Exchange to manipulate container freight
markets.

(b) ELEMENTS.—The study and assessment required
under to subsection (a) shall address the following:

(1) The influence of the government of the Peo-
ple’s Republic of China on the Shanghai Shipping
Exchange.

(2) The impact of such business practices or in-
fluence on American consumers and businesses.

(3) The ability of a shipping exchange reg-
istered under section 40504 of title 46, United
States Code, and based in the United States to iden-
tify market manipulation as described in subsection
(a)(2) or any otherwise concerning practices by the
Shanghai Shipping Exchange and report such inci-
dents to the Federal Maritime Commission and
other Federal regulators.

(4) Any other matters the Secretary or the ap-
propriate independent entity that enters into an
agreement under this section determines to be ap-
propriate for the purposes of the study.
(c) Report.—

   (1) In general.—Not later than 1 year after the date on which the Secretary of Transportation enters into an agreement under this section, the appropriate independent entity shall submit to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report setting forth the results of the study conducted under subsection (a).

   (2) Public availability.—The Secretary shall publish the report required under paragraph (1) on a publicly accessible website of the Department of Transportation.

(d) Appropriate independent entity described.—An appropriate independent entity described in this subsection is—

   (1) a federally funded research and development center sponsored by a Federal agency;

   (2) the Transportation Research Board of the National Academies;

   (3) the Government Accountability Office; or

   (4) an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.
(e) OBTAINING OFFICIAL DATA.—The appropriate independent entity that enters into an agreement under this section may secure directly from any department or agency of the Federal Government information necessary to enable such entity to carry out this section. Upon request of such entity, the head of such department or agency shall furnish such information to the appropriate independent entity, unless doing so would not be in the public interest.

SEC. 14. TECHNICAL AMENDMENTS.

(a) ADMINISTRATION.—Section 15109 of title 46, United States Code, is amended—

(1) in subsection (a)(2) by striking “15102,” and inserting “15102”; and

(2) in subsection (k)(1) by inserting “or to which this chapter applies” after “under this chapter”.

(b) INVESTIGATIONS.—Section 41302(a) of title 46, United States Code, is amended by striking “conduct agreement” and inserting “conduct, agreement”.

(c) AWARD OF REPARATIONS.—Section 41305(c) is amended by striking “section subsection” and inserting “subsection”.

(d) NATIONAL SHIPPER ADVISORY COMMITTEE.—Section 42502(c)(3) of title 46, United States Code is
amended by striking “(3) REPRESENTATION” and all that follows through “Twelve members” and inserting the following:

“(3) REPRESENTATION.—Members of the Committee shall be appointed as follows:

“(A) Twelve members”.

(e) MONETARY PENALTIES OR REFUNDS.—The analysis for chapter 411 of title 46, United States Code, is amended by striking the item relating to section 41107 and inserting the following:

“41107. Monetary penalties or refunds.”.

(f) NATIONAL ADVISORY COMMITTEES.—The analysis for subtitle IV of title 46, United States Code, is amended by striking the item relating to chapter 425 and inserting the following:

“425. National Advisory Committees ...................................................... 42501”.

(g) ANALYSIS.—The analysis for chapter 425 of title 46, United States Code, is amended to read as follows:

“CHAPTER 425—NATIONAL ADVISORY COMMITTEES

See.

“42501. Definitions.


“42503. National Seaport Advisory Committee.”.

(h) ANNUAL REPORT AND PUBLIC DISCLOSURE.—

(1) CONFORMING AMENDMENT.—The heading for section 46106 of title 46, United States Code, is amended by inserting “and public disclosure” after “report”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 461 of title 46, United States Code, is amended by striking the item related to section 46106 and inserting the following:

“46106. Annual report and public disclosure.”.

(i) ANALYSIS AMENDMENT.—The item relating to section 41307 in the analysis for chapter 413 of title 46, United States Code, is amended by striking “sought”.