

**Calendar No. 561**116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 2981****[Report No. 116–273]**

To reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2019

Mr. SULLIVAN (for himself and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2020

Reported by Mr. WICKER, with an amendment

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**A BILL**

To reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, 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,*

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

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “National Oceanic and Atmospheric Administration Com-  
 4 missioned Officer Corps Amendments Act of 2019”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. References to National Oceanic and Atmospheric Administration Com-  
missioned Officer Corps Act of 2002.

**TITLE I—GENERAL PROVISIONS**

- Sec. 101. Strength and distribution in grade.
- Sec. 102. Recalled officers.
- Sec. 103. Obligated service requirement.
- Sec. 104. Training and physical fitness.
- Sec. 105. Aviation accession training programs.
- Sec. 106. Recruiting materials.
- Sec. 107. Procurement of charting and survey services.
- Sec. 108. Technical correction.

**TITLE II—PARITY AND RECRUITMENT**

- Sec. 201. Education loans.
- Sec. 202. Interest payments.
- Sec. 203. Student pre-commissioning program.
- Sec. 204. Limitation on educational assistance.
- Sec. 205. Applicability of certain provisions of title 10, United States Code, and  
extension of certain authorities applicable to members of the  
Armed Forces to commissioned officer corps.
- Sec. 206. Applicability of certain provisions of title 37, United States Code.
- Sec. 207. Prohibition on retaliatory personnel actions.
- Sec. 208. Application of certain provisions of competitive service law.
- Sec. 209. Employment and reemployment rights.
- Sec. 210. Treatment of commission in commissioned officer corps for purposes  
of certain hiring decisions.

**TITLE III—APPOINTMENTS AND PROMOTION OF OFFICERS**

- Sec. 301. Appointments.
- Sec. 302. Personnel boards.
- Sec. 303. Positions of importance and responsibility.
- Sec. 304. Temporary appointments.
- Sec. 305. Officer candidates.
- Sec. 306. Procurement of personnel.
- Sec. 307. Career intermission program.

**TITLE IV—SEPARATION AND RETIREMENT OF OFFICERS**



1           “(7) Lieutenant.

2           “(8) Lieutenant (junior grade).

3           “(9) Ensign.

4           “(b) GRADE DISTRIBUTION.—The Secretary shall  
5 prescribe, with respect to the distribution on the lineal list  
6 in grade, the percentages applicable to the grades set forth  
7 in subsection (a).

8           “(c) ANNUAL COMPUTATION OF NUMBER IN  
9 GRADE.—

10           “(1) IN GENERAL.—Not less frequently than  
11 once each year, the Secretary shall make a computa-  
12 tion to determine the number of officers on the lin-  
13 eal list authorized to be serving in each grade.

14           “(2) METHOD OF COMPUTATION.—The number  
15 in each grade shall be computed by applying the ap-  
16 plicable percentage to the total number of such offi-  
17 cers serving on active duty on the date the computa-  
18 tion is made.

19           “(3) FRACTIONS.—If a final fraction occurs in  
20 computing the authorized number of officers in a  
21 grade, the nearest whole number shall be taken. If  
22 the fraction is  $\frac{1}{2}$ , the next higher whole number  
23 shall be taken.

24           “(d) TEMPORARY INCREASE IN NUMBERS.—The  
25 total number of officers authorized by law to be on the

1 lineal list during a fiscal year may be temporarily exceeded  
 2 if the average number on that list during that fiscal year  
 3 does not exceed the authorized number.

4 “(e) POSITIONS OF IMPORTANCE AND RESPONSI-  
 5 BILITY.—Officers serving in positions designated under  
 6 section 228(a) and officers recalled from retired status  
 7 shall not be counted when computing authorized strengths  
 8 under subsection (e) and shall not count against those  
 9 strengths.

10 “(f) PRESERVATION OF GRADE AND PAY.—No offi-  
 11 cer may be reduced in grade or pay or separated from  
 12 the commissioned officer corps of the Administration as  
 13 the result of a computation made to determine the author-  
 14 ized number of officers in the various grades.”.

15 **SEC. 102. RECALLED OFFICERS.**

16 (a) IN GENERAL.—Section 215 (33 U.S.C. 3005) is  
 17 amended to read as follows:

18 **“SEC. 215. NUMBER OF AUTHORIZED COMMISSIONED OFFI-  
 19 CERS.**

20 “(a) IN GENERAL.—The total number of authorized  
 21 commissioned officers on the lineal list of the commis-  
 22 sioned officer corps of the Administration shall not exceed  
 23 500.

24 “(b) POSITIONS OF IMPORTANCE AND RESPONSI-  
 25 BILITY.—Officers serving in positions designated under

1 section 228 and officers recalled from retired status or de-  
 2 tailed to an agency other than the Administration—

3 “(1) may not be counted in determining the  
 4 total number of authorized officers on the lineal list  
 5 under this section; and

6 “(2) may not count against such number.”.

7 (b) CLERICAL AMENDMENT.—The table of contents  
 8 in section 1 of the Act entitled “An Act to authorize the  
 9 Hydrographic Services Improvement Act of 1998, and for  
 10 other purposes” (Public Law 107–372) is amended by  
 11 striking the item relating to section 215 and inserting the  
 12 following:

“Sec. 215. Number of authorized commissioned officers.”.

13 **SEC. 103. OBLIGATED SERVICE REQUIREMENT.**

14 (a) IN GENERAL.—Subtitle A (33 U.S.C. 3001 et  
 15 seq.) is amended by adding at the end the following:

16 **“SEC. 216. OBLIGATED SERVICE REQUIREMENT.**

17 “(a) IN GENERAL.—

18 “(1) REGULATIONS.—The Secretary shall pre-  
 19 scribe the obligated service requirements for appoint-  
 20 ments, training, promotions, separations, continu-  
 21 ations, and retirement of officers not otherwise cov-  
 22 ered by law.

23 “(2) WRITTEN AGREEMENTS.—The Secretary  
 24 and officers shall enter into written agreements that  
 25 describe the officers’ obligated service requirements

1 prescribed under paragraph (1) in return for such  
2 appointments, training, promotions, separations, and  
3 retirements as the Secretary considers appropriate.

4 “(b) REPAYMENT FOR FAILURE TO SATISFY RE-  
5 QUIREMENTS.—

6 “(1) IN GENERAL.—The Secretary may require  
7 an officer who fails to meet the service requirements  
8 prescribed under subsection (a)(1) to reimburse the  
9 Secretary in an amount that bears the same ratio to  
10 the total costs of the training provided to that offi-  
11 cer by the Secretary as the unserved portion of ac-  
12 tive duty bears to the total period of active duty the  
13 officer agreed to serve.

14 “(2) OBLIGATION AS DEBT TO UNITED  
15 STATES.—An obligation to reimburse the Secretary  
16 under paragraph (1) is, for all purposes, a debt  
17 owed to the United States.

18 “(3) DISCHARGE IN BANKRUPTCY.—A dis-  
19 charge in bankruptcy under title 11 that is entered  
20 less than 5 years after the termination of a written  
21 agreement entered into under subsection (a)(2) does  
22 not discharge the individual signing the agreement  
23 from a debt arising under such agreement.

1 “(c) WAIVER OR SUSPENSION OF COMPLIANCE.—

2 The Secretary may waive the service obligation of an offi-  
3 cer who—

4 “(1) becomes unqualified to serve on active  
5 duty in the commissioned officer corps of the Ad-  
6 ministration because of a circumstance not within  
7 the control of that officer; or

8 “(2) is—

9 “(A) not physically qualified for appoint-  
10 ment; and

11 “(B) determined to be unqualified for serv-  
12 ice in the commissioned officer corps of the Ad-  
13 ministration because of a physical or medical  
14 condition that was not the result of the officer’s  
15 own misconduct or grossly negligent conduct.”.

16 (b) CLERICAL AMENDMENT.—The table of contents  
17 in section 1 of the Act entitled “An Act to authorize the  
18 Hydrographic Services Improvement Act of 1998, and for  
19 other purposes” (Public Law 107–372) is amended by in-  
20 serting after the item relating to section 215 the following:

“Sec. 216. Obligated service requirement.”.

21 **SEC. 104. TRAINING AND PHYSICAL FITNESS.**

22 (a) IN GENERAL.—Subtitle A (33 U.S.C. 3001 et  
23 seq.), as amended by section 103(a), is further amended  
24 by adding at the end the following:



1 **“SEC. 217. TRAINING AND PHYSICAL FITNESS.**

2       “(a) **TRAINING.**—The Secretary may take such meas-  
3 ures as may be necessary to ensure that officers are pre-  
4 pared to carry out their duties in the commissioned officer  
5 corps of the Administration and proficient in the skills  
6 necessary to carry out such duties. Such measures may  
7 include the following:

8               “(1) Carrying out training programs and cor-  
9 respondence courses, including establishing and op-  
10 erating a basic officer training program to provide  
11 initial indoctrination and maritime vocational train-  
12 ing for officer candidates as well as refresher train-  
13 ing, mid-career training, aviation training, and such  
14 other training as the Secretary considers necessary  
15 for officer development and proficiency.

16               “(2) Providing officers and officer candidates  
17 with educational materials.

18               “(3) Acquiring such equipment as may be nec-  
19 essary for training and instructional purposes.

20       “(b) **PHYSICAL FITNESS.**—The Secretary shall en-  
21 sure that officers maintain a high physical state of readi-  
22 ness by establishing standards of physical fitness for offi-  
23 cers that are substantially equivalent to those prescribed  
24 for officers in the Coast Guard.”.

25       (b) **CLERICAL AMENDMENT.**—The table of contents  
26 in section 1 of the Act entitled “An Act to authorize the

1 Hydrographic Services Improvement Act of 1998, and for  
 2 other purposes” (Public Law 107–372), as amended by  
 3 section 103(b), is further amended by inserting after the  
 4 item relating to section 216 the following:

“Sec. 217. Training and physical fitness.”.

5 **SEC. 105. AVIATION ACCESSION TRAINING PROGRAMS.**

6 (a) IN GENERAL.—Subtitle A (33 U.S.C. 3001 et  
 7 seq.), as amended by section 104(a), is further amended  
 8 by adding at the end the following:

9 **“SEC. 218. AVIATION ACCESSION TRAINING PROGRAMS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) ADMINISTRATOR.—The term ‘Adminis-  
 12 trator’ means the Under Secretary of Commerce for  
 13 Oceans and Atmosphere and the Administrator of  
 14 the National Oceanic and Atmospheric Administra-  
 15 tion.

16 “(2) MEMBER OF THE PROGRAM.—The term  
 17 ‘member of the program’ means a student who is en-  
 18 rolled in the program.

19 “(3) PROGRAM.—The term ‘program’ means an  
 20 aviation accession training program of the commis-  
 21 sioned officer corps of the Administration estab-  
 22 lished pursuant to subsection (b).

23 “(b) AVIATION ACCESSION TRAINING PROGRAMS.—

24 “(1) ESTABLISHMENT AUTHORIZED.—The Ad-  
 25 ministrator, under regulations prescribed by the Sec-

1       retary, shall establish and maintain one or more  
2       aviation accession training programs for the commis-  
3       sioned officer corps of the Administration at institu-  
4       tions described in paragraph (2).

5           “(2) INSTITUTIONS DESCRIBED.—An institu-  
6       tion described in this paragraph is an educational in-  
7       stitution—

8           “(A) that requests to enter into an agree-  
9       ment with the Administrator providing for the  
10      establishment of the program at the institution;

11          “(B) that has, as a part of its curriculum,  
12      a 4-year baccalaureate program of professional  
13      flight and piloting instruction that is accredited  
14      by the Aviation Accreditation Board Inter-  
15      national;

16          “(C) that is located—

17           “(i) not more than 250 miles from the  
18      National Weather Service Training Center;

19      and

20          “(ii) in a geographic area that—

21           “(I) experiences a wide variation  
22      in climate-related activity, including  
23      frequent high winds, convective activ-  
24      ity (including tornadoes), periods of  
25      low visibility, heat, and snow and ice

1 episodes, to provide opportunities for  
 2 pilots to demonstrate skill in all  
 3 weather conditions compatible with fu-  
 4 ture encounters during their service in  
 5 the commissioned officer corps; and

6 “(H) has a climate that can ac-  
 7 commodate both primary and ad-  
 8 vanced flight training activity at least  
 9 75 percent of the year; and

10 “(D) at which the Administrator deter-  
 11 mines that—

12 “(i) there will be at least 1 student  
 13 enrolled in the program; and

14 “(ii) the provisions of this section are  
 15 otherwise satisfied.

16 “(3) LIMITATIONS IN CONNECTION WITH PAR-  
 17 TICULAR INSTITUTIONS.—The program may not be  
 18 established or maintained at an institution unless—

19 “(A) the senior commissioned officer or  
 20 employee of the commissioned officer corps who  
 21 is assigned as an advisor to the program at that  
 22 institution is given the academic rank of ad-  
 23 junct professor; and

24 “(B) the institution fulfills the terms of its  
 25 agreement with the Administrator.

1           ~~“(4) MEMBERSHIP IN CONNECTION WITH STA-~~  
 2           ~~TUS AS STUDENT.—At institutions at which the pro-~~  
 3           ~~gram is established, the membership of students in~~  
 4           ~~the program shall be elective, as provided by State~~  
 5           ~~law or the authorities of the institution concerned.~~

6           ~~“(c) MEMBERSHIP.—~~

7           ~~“(1) ELIGIBILITY.—To be eligible for member-~~  
 8           ~~ship in the program an individual must—~~

9                   ~~“(A) be a student at an institution at~~  
 10                   ~~which the program is established;~~

11                   ~~“(B) be a citizen of the United States;~~

12                   ~~“(C) contract in writing, with the consent~~  
 13                   ~~of a parent or guardian if a minor, with the Ad-~~  
 14                   ~~ministrator, to—~~

15                   ~~“(i) accept an appointment, if offered,~~  
 16                   ~~as a commissioned officer in the commis-~~  
 17                   ~~sioned officer corps of the Administration;~~  
 18                   ~~and~~

19                   ~~“(ii) to serve in the commissioned offi-~~  
 20                   ~~cer corps for not fewer than 4 years;~~

21                   ~~“(D) enroll in—~~

22                   ~~“(i) a 4-year baccalaureate program~~  
 23                   ~~of professional flight and piloting instruc-~~  
 24                   ~~tion; and~~

1           “(ii) other training or education, in-  
 2           cluding basic officer training, which is pre-  
 3           scribed by the Administrator as meeting  
 4           the preliminary requirement for admission  
 5           to the commissioned officer corps; and

6           “(E) execute a certificate or take an oath  
 7           relating to morality and conduct in such form  
 8           as the Administrator prescribes.

9           “(2) COMPLETION OF PROGRAM.—A member of  
 10          the program may be appointed as a regular officer  
 11          in the commissioned officer corps if the member  
 12          meets all requirements for appointment as such an  
 13          officer.

14          “(d) FINANCIAL ASSISTANCE FOR QUALIFIED MEM-  
 15          BERS.—

16                 “(1) EXPENSES OF COURSE OF INSTRU-  
 17                 TION.—

18                 “(A) IN GENERAL.—In the case of a mem-  
 19                 ber of the program who meets such qualifica-  
 20                 tions as the Administrator establishes for pur-  
 21                 poses of this subsection, the Administrator may  
 22                 pay the expenses of the member in connection  
 23                 with pursuit of a course of professional flight  
 24                 and piloting instruction under the program, in-  
 25                 cluding tuition, fees, educational materials such

1 as books, training, certifications, travel, and  
2 laboratory expenses.

3 “(B) ASSISTANCE AFTER FOURTH ACADEMIC YEAR.—In the case of a member of the  
4 program described in subparagraph (A) who is  
5 enrolled in a course described in that subparagraph that has been approved by the Administrator and requires more than 4 academic years  
6 for completion, including elective requirements  
7 of the program, assistance under this subsection may also be provided during a fifth academic year or during a combination of a part  
8 of a fifth academic year and summer sessions.

9 “(2) ROOM AND BOARD.—In the case of a  
10 member eligible to receive assistance under paragraph (1), the Administrator may, in lieu of payment of all or part of such assistance, pay the room  
11 and board expenses of the member, and other educational expenses, of the educational institution concerned.

12 “(3) FAILURE TO COMPLETE PROGRAM OR ACCEPT COMMISSION.—A member of the program who  
13 receives assistance under this subsection and who  
14 does not complete the course of instruction, or who  
15 completes the course but declines to accept a com-

1 mission in the commissioned officer corps when of-  
 2 fered, shall be subject to the repayment provisions of  
 3 subsection (e).

4 “(e) REPAYMENT OF UNEARNED PORTION OF FI-  
 5 NANCIAL ASSISTANCE WHEN CONDITIONS OF PAYMENT  
 6 NOT MET.—

7 “(1) IN GENERAL.—A member of the program  
 8 who receives or benefits from assistance under sub-  
 9 section (d), and whose receipt of or benefit from  
 10 such assistance is subject to the condition that the  
 11 member fully satisfy the requirements of subsection  
 12 (e), shall repay to the United States an amount  
 13 equal to the assistance received or benefitted from if  
 14 the member fails to fully satisfy such requirements  
 15 and may not receive or benefit from any unpaid  
 16 amounts of such assistance after the member fails to  
 17 satisfy such requirements, unless the Administrator  
 18 determines that the imposition of the repayment re-  
 19 quirement and the termination of payment of unpaid  
 20 amounts of such assistance with regard to the mem-  
 21 ber would be—

22 “(A) contrary to a personnel policy or  
 23 management objective;

24 “(B) against equity and good conscience;

25 or



1           “(C) contrary to the best interests of the  
2           United States.

3           “(2) REGULATIONS.—The Administrator may  
4           establish, by regulations, procedures for determining  
5           the amount of the repayment required under this  
6           subsection and the circumstances under which an ex-  
7           ception to repayment may be granted. The Adminis-  
8           trator may specify in the regulations the conditions  
9           under which financial assistance to be paid to a  
10          member of the program will not be made if the  
11          member no longer satisfies the requirements in sub-  
12          section (c) or qualifications in subsection (d) for  
13          such assistance.

14          “(3) OBLIGATION AS DEBT TO UNITED  
15          STATES.—An obligation to repay the United States  
16          under this subsection is, for all purposes, a debt  
17          owed to the United States.”.

18          (b) CLERICAL AMENDMENT.—The table of contents  
19          in section 1 of the Act entitled “An Act to authorize the  
20          Hydrographic Services Improvement Act of 1998, and for  
21          other purposes” (Public Law 107-372), as amended by  
22          section 104(b), is further amended by inserting after the  
23          item relating to section 217 the following:

“Sec. 218. Aviation accession training programs.”.

1 **SEC. 106. RECRUITING MATERIALS.**

2 (a) **IN GENERAL.**—Subtitle A (33 U.S.C. 3001 et  
3 seq.), as amended by section 105(a), is further amended  
4 by adding at the end the following:

5 **“SEC. 219. USE OF RECRUITING MATERIALS FOR PUBLIC**  
6 **RELATIONS.**

7 “The Secretary may use for public relations purposes  
8 of the Department of Commerce any advertising materials  
9 developed for use for recruitment and retention of per-  
10 sonnel for the commissioned officer corps of the Adminis-  
11 tration. Any such use shall be under such conditions and  
12 subject to such restrictions as the Secretary shall pre-  
13 scribe.”.

14 (b) **CLERICAL AMENDMENT.**—The table of contents  
15 in section 1 of the Act entitled “An Act to authorize the  
16 Hydrographic Services Improvement Act of 1998, and for  
17 other purposes” (Public Law 107–372), as amended by  
18 section 105(b), is further amended by inserting after the  
19 item relating to section 217 the following:

“Sec. 219. Use of recruiting materials for public relations.”.

20 **SEC. 107. PROCUREMENT OF CHARTING AND SURVEY SERV-**  
21 **ICES.**

22 (a) **IN GENERAL.**—Not later than 90 days after the  
23 development of the strategy required by section 1002(b)  
24 of the Frank LoBiondo Coast Guard Authorization Act  
25 of 2018 (Public Law 115–282, 132 Stat. 4365), the Sec-

1 retary of Commerce shall enter into not fewer than 2  
 2 multi-year contracts with 1 or more private entities for  
 3 the performance of charting and survey services by vessels.

4 (b) CHARTING AND SURVEYS IN THE ARCTIC.—In  
 5 soliciting and engaging the services of vessels under sub-  
 6 section (a), the Secretary shall particularly emphasize the  
 7 need for charting and surveys in the Arctic.

8 **SEC. 108. TECHNICAL CORRECTION.**

9 Section 101(21)(C) of title 38, United States Code,  
 10 is amended by inserting “in the commissioned officer  
 11 corps” before “of the National”.

12 **TITLE II—PARITY AND**  
 13 **RECRUITMENT**

14 **SEC. 201. EDUCATION LOANS.**

15 (a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et  
 16 seq.) is amended by adding at the end the following:

17 **“SEC. 267. EDUCATION LOAN REPAYMENT PROGRAM.**

18 **“(a) AUTHORITY TO REPAY EDUCATION LOANS.—**  
 19 For the purpose of maintaining adequate numbers of offi-  
 20 cers of the commissioned officer corps of the Administra-  
 21 tion on active duty who have skills required by the com-  
 22 missioned officer corps, the Secretary may repay, in the  
 23 case of a person described in subsection (b), a loan that—

24 **“(1) was used by the person to finance edu-**  
 25 **cation; and**

1           “(2) was obtained from a governmental entity,  
2           private financial institution, educational institution,  
3           or other authorized entity.

4           “(b) ELIGIBLE PERSONS.—To be eligible to obtain  
5 a loan repayment under this section, a person must—

6           “(1) satisfy 1 of the requirements specified in  
7 subsection (c);

8           “(2) be fully qualified for, or hold, an appoint-  
9 ment as a commissioned officer in the commissioned  
10 officer corps of the Administration; and

11           “(3) sign a written agreement to serve on active  
12 duty, or, if on active duty, to remain on active duty  
13 for a period in addition to any other incurred active  
14 duty obligation.

15           “(c) ACADEMIC AND PROFESSIONAL REQUIRE-  
16 MENTS.—One of the following academic requirements  
17 must be satisfied for purposes of determining the eligi-  
18 bility of an individual for a loan repayment under this sec-  
19 tion:

20           “(1) The person is fully qualified in a profes-  
21 sion that the Secretary has determined to be nec-  
22 essary to meet identified skill shortages in the com-  
23 missioned officer corps.

24           “(2) The person is enrolled as a full-time stu-  
25 dent in the final year of a course of study at an ac-

1 credited educational institution (as determined by  
2 the Secretary of Education) leading to a degree in  
3 a profession that will meet identified skill shortages  
4 in the commissioned officer corps.

5 “(d) LOAN REPAYMENTS.—

6 “(1) IN GENERAL.—Subject to the limits estab-  
7 lished under paragraph (2), a loan repayment under  
8 this section may consist of the payment of the prin-  
9 cipal, interest, and related expenses of a loan ob-  
10 tained by a person described in subsection (b).

11 “(2) LIMITATION ON AMOUNT.—For each year  
12 of obligated service that a person agrees to serve in  
13 an agreement described in subsection (b)(3), the  
14 Secretary may pay not more than the amount speci-  
15 fied in section 2173(e)(2) of title 10, United States  
16 Code.

17 “(e) ACTIVE DUTY SERVICE OBLIGATION.—

18 “(1) IN GENERAL.—A person entering into an  
19 agreement described in subsection (b)(3) incurs an  
20 active duty service obligation.

21 “(2) LENGTH OF OBLIGATION DETERMINED  
22 UNDER REGULATIONS.—

23 “(A) IN GENERAL.—Except as provided in  
24 subparagraph (B), the length of the obligation

1 under paragraph (1) shall be determined under  
2 regulations prescribed by the Secretary.

3 “(B) MINIMUM OBLIGATION.—The regula-  
4 tions prescribed under subparagraph (A) may  
5 not provide for a period of obligation of less  
6 than 1 year for each maximum annual amount,  
7 or portion thereof, paid on behalf of the person  
8 for qualified loans.

9 “(3) PERSONS ON ACTIVE DUTY BEFORE EN-  
10 TERING INTO AGREEMENT.—The active duty service  
11 obligation of persons on active duty before entering  
12 into the agreement shall be served after the conclu-  
13 sion of any other obligation incurred under the  
14 agreement.

15 “(4) CONCURRENT COMPLETION OF SERVICE  
16 OBLIGATIONS.—A service obligation under this sec-  
17 tion may be completed concurrently with a service  
18 obligation under section 216.

19 “(f) EFFECT OF FAILURE TO COMPLETE OBLIGA-  
20 TION.—

21 “(1) ALTERNATIVE OBLIGATIONS.—An officer  
22 who is relieved of the officer’s active duty obligation  
23 under this section before the completion of that obli-  
24 gation may be given any alternative obligation, at  
25 the discretion of the Secretary.

1           “(2) REPAYMENT.—An officer who does not  
2           complete the period of active duty specified in the  
3           agreement entered into under subsection (b)(3), or  
4           the alternative obligation imposed under paragraph  
5           (1), shall be subject to the repayment provisions  
6           under section 216.

7           “(g) RULEMAKING.—The Secretary shall prescribe  
8           regulations to carry out this section, including—

9                   “(1) standards for qualified loans and author-  
10                  ized payees; and

11                   “(2) other terms and conditions for the making  
12                  of loan repayments.”.

13           (b) CLERICAL AMENDMENT.—The table of contents  
14           in section 1 of the Act entitled “An Act to authorize the  
15           Hydrographic Services Improvement Act of 1998, and for  
16           other purposes” (Public Law 107–372) is amended by in-  
17           serting after the item relating to section 266 the following:

          “Sec. 267. Education loan repayment program.”.

18           **SEC. 202. INTEREST PAYMENTS.**

19           (a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et  
20           seq.), as amended by section 201(a), is further amended  
21           by adding at the end the following:

22           **“SEC. 268. INTEREST PAYMENT PROGRAM.**

23                   “(a) AUTHORITY.—The Secretary may pay the inter-  
24                  est and any special allowances that accrue on 1 or more

1 student loans of an eligible officer, in accordance with this  
2 section.

3 “(b) ELIGIBLE OFFICERS.—An officer is eligible for  
4 the benefit described in subsection (a) while the officer—

5 “(1) is serving on active duty;

6 “(2) has not completed more than 3 years of  
7 service on active duty;

8 “(3) is the debtor on 1 or more unpaid loans  
9 described in subsection (c); and

10 “(4) is not in default on any such loan.

11 “(c) STUDENT LOANS.—The authority to make pay-  
12 ments under subsection (a) may be exercised with respect  
13 to the following loans:

14 “(1) A loan made, insured, or guaranteed under  
15 part B of title IV of the Higher Education Act of  
16 1965 (20 U.S.C. 1071 et seq.).

17 “(2) A loan made under part D of such title  
18 (20 U.S.C. 1087a et seq.).

19 “(3) A loan made under part E of such title  
20 (20 U.S.C. 1087aa et seq.).

21 “(d) MAXIMUM BENEFIT.—Interest and any special  
22 allowance may be paid on behalf of an officer under this  
23 section for any of the 36 consecutive months during which  
24 the officer is eligible under subsection (b).



1       “(e) FUNDS FOR PAYMENTS.—The Secretary may  
2 use amounts appropriated for the pay and allowances of  
3 personnel of the commissioned officer corps of the Admin-  
4 istration for payments under this section.

5       “(f) COORDINATION WITH SECRETARY OF EDU-  
6 CATION.—

7           “(1) IN GENERAL.—The Secretary shall consult  
8 with the Secretary of Education regarding the ad-  
9 ministration of this section.

10          “(2) TRANSFER OF FUNDS.—The Secretary  
11 shall transfer to the Secretary of Education the  
12 funds necessary—

13           “(A) to pay interest and special allowances  
14 on student loans under this section (in accord-  
15 ance with sections 428(o), 455(l), and 464(j) of  
16 the Higher Education Act of 1965 (20 U.S.C.  
17 1078(o), 1087e(l), and 1087dd(j)); and

18           “(B) to reimburse the Secretary of Edu-  
19 cation for any reasonable administrative costs  
20 incurred by the Secretary in coordinating the  
21 program under this section with the administra-  
22 tion of the student loan programs under parts  
23 B, D, and E of title IV of the Higher Edu-  
24 cation Act of 1965 (20 U.S.C. 1071 et seq.,  
25 1087a et seq., 1087aa et seq.).

1       “(g) SPECIAL ALLOWANCE DEFINED.—In this sec-  
2 tion, the term ‘special allowance’ means a special allow-  
3 ance that is payable under section 438 of the Higher Edu-  
4 cation Act of 1965 (20 U.S.C. 1087–1).”.

5       (b) CONFORMING AMENDMENTS.—

6           (1) Section 428(o) of the Higher Education Act  
7 of 1965 (20 U.S.C. 1078(o)) is amended—

8                   (A) by striking the subsection heading and  
9 inserting “ARMED FORCES AND NOAA COM-  
10 MISSIONED OFFICER CORPS STUDENT LOAN  
11 INTEREST PAYMENT PROGRAMS”; and

12                   (B) in paragraph (1)—

13                           (i) by inserting “or section 268 of the  
14 National Oceanic and Atmospheric Admin-  
15 istration Commissioned Officer Corps Act  
16 of 2002” after “Code,”; and

17                           (ii) by inserting “or an officer in the  
18 commissioned officer corps of the National  
19 Oceanic and Atmospheric Administration,  
20 respectively,” after “Armed Forces”.

21           (2) Sections 455(l) and 464(j) of the Higher  
22 Education Act of 1965 (20 U.S.C. 1087e(l) and  
23 1087dd(j)) are each amended—

24                   (A) by striking the subsection heading and  
25 inserting “ARMED FORCES AND NOAA COM-

1 MISSIONED OFFICER CORPS STUDENT LOAN  
2 INTEREST PAYMENT PROGRAMS”;

3 (B) in paragraph (1)—

4 (i) by inserting “or section 268 of the  
5 National Oceanic and Atmospheric Admin-  
6 istration Commissioned Officer Corps Act  
7 of 2002” after “Code,”; and

8 (ii) by inserting “or an officer in the  
9 commissioned officer corps of the National  
10 Oceanic and Atmospheric Administration,  
11 respectively” after “Armed Forces”.

12 (c) CLERICAL AMENDMENT.—The table of contents  
13 in section 1 of the Act entitled “An Act to authorize the  
14 Hydrographic Services Improvement Act of 1998, and for  
15 other purposes” (Public Law 107–372), as amended by  
16 section 201(b), is further amended by inserting after the  
17 item relating to section 267 the following:

“Sec. 268. Interest payment program.”.

18 **SEC. 203. STUDENT PRE-COMMISSIONING PROGRAM.**

19 (a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et  
20 seq.), as amended by section 202(a), is further amended  
21 by adding at the end the following:

22 **“SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION AS-**  
23 **SISTANCE PROGRAM.**

24 “(a) AUTHORITY TO PROVIDE FINANCIAL ASSIST-  
25 ANCE.—For the purpose of maintaining adequate numbers

1 of officers of the commissioned officer corps of the Admin-  
 2 istration on active duty, the Secretary may provide finan-  
 3 cial assistance to a person described in subsection (b) for  
 4 expenses of the person while the person is pursuing on  
 5 a full-time basis at an accredited educational institution  
 6 (as determined by the Secretary of Education) a program  
 7 of education approved by the Secretary that leads to—

8           “(1) a baccalaureate degree in not more than 5  
 9           academic years; or

10           “(2) a postbaccalaureate degree.

11           “(b) ELIGIBLE PERSONS.—

12           “(1) IN GENERAL.—A person is eligible to ob-  
 13           tain financial assistance under subsection (a) if the  
 14           person—

15           “(A) is enrolled on a full-time basis in a  
 16           program of education referred to in subsection  
 17           (a) at any educational institution described in  
 18           such subsection;

19           “(B) meets all of the requirements for ac-  
 20           ceptance into the commissioned officer corps of  
 21           the Administration except for the completion of  
 22           a baccalaureate degree; and

23           “(C) enters into a written agreement with  
 24           the Secretary described in paragraph (2).

1           “(2) AGREEMENT.—A written agreement re-  
 2           ferred to in paragraph (1)(C) is an agreement be-  
 3           tween the person and the Secretary in which the  
 4           person—

5                   “(A) agrees to accept an appointment as  
 6                   an officer, if tendered; and

7                   “(B) upon completion of the person’s edu-  
 8                   cational program, agrees to serve on active  
 9                   duty, immediately after appointment, for—

10                           “(i) up to 3 years if the person re-  
 11                           ceived less than 3 years of assistance; and

12                           “(ii) up to 5 years if the person re-  
 13                           ceived at least 3 years of assistance.

14           “(e) QUALIFYING EXPENSES.—Expenses for which  
 15           financial assistance may be provided under subsection (a)  
 16           are the following:

17                   “(1) Tuition and fees charged by the edu-  
 18                   cational institution involved.

19                   “(2) The cost of educational materials.

20                   “(3) In the case of a program of education  
 21                   leading to a baccalaureate degree, laboratory ex-  
 22                   penses.

23                   “(4) Such other expenses as the Secretary con-  
 24                   siders appropriate.

1       “(d) LIMITATION ON AMOUNT.—The Secretary shall  
2 prescribe the amount of financial assistance provided to  
3 a person under subsection (a), which may not exceed the  
4 amount specified in section 2173(e)(2) of title 10, United  
5 States Code, for each year of obligated service that a per-  
6 son agrees to serve in an agreement described in sub-  
7 section (b)(2).

8       “(e) DURATION OF ASSISTANCE.—Financial assist-  
9 ance may be provided to a person under subsection (a)  
10 for not more than 5 consecutive academic years.

11       “(f) SUBSISTENCE ALLOWANCE.—

12               “(1) IN GENERAL.—A person who receives fi-  
13 nancial assistance under subsection (a) shall be enti-  
14 tled to a monthly subsistence allowance at a rate  
15 prescribed under paragraph (2) for the duration of  
16 the period for which the person receives such finan-  
17 cial assistance.

18               “(2) DETERMINATION OF AMOUNT.—The Sec-  
19 retary shall prescribe monthly rates for subsistence  
20 allowance provided under paragraph (1), which shall  
21 be equal to the amount specified in section 2144(a)  
22 of title 10, United States Code.

23       “(g) INITIAL CLOTHING ALLOWANCE.—

24               “(1) TRAINING.—The Secretary may prescribe  
25 a sum which shall be credited to each person who re-

1 receives financial assistance under subsection (a) to  
 2 cover the cost of the person's initial clothing and  
 3 equipment issue.

4 “(2) APPOINTMENT.—Upon completion of the  
 5 program of education for which a person receives fi-  
 6 nancial assistance under subsection (a) and accept-  
 7 ance of appointment in the commissioned officer  
 8 corps of the Administration, the person may be  
 9 issued a subsequent clothing allowance equivalent to  
 10 that normally provided to a newly appointed officer.

11 “(h) TERMINATION OF FINANCIAL ASSISTANCE.—

12 “(1) IN GENERAL.—The Secretary shall termi-  
 13 nate the assistance provided to a person under this  
 14 section if—

15 “(A) the Secretary accepts a request by  
 16 the person to be released from an agreement  
 17 described in subsection (b)(2);

18 “(B) the misconduct of the person results  
 19 in a failure to complete the period of active  
 20 duty required under the agreement; or

21 “(C) the person fails to fulfill any term or  
 22 condition of the agreement.

23 “(2) REIMBURSEMENT.—The Secretary may re-  
 24 quire a person who receives assistance described in  
 25 subsection (e), (f), or (g) under an agreement en-

1       tered into under subsection (b)(1)(C) to reimburse  
 2       the Secretary in an amount that bears the same  
 3       ratio to the total costs of the assistance provided to  
 4       that person as the unserved portion of active duty  
 5       bears to the total period of active duty the officer  
 6       agreed to serve under the agreement.

7           “(3) WAIVER.—The Secretary may waive the  
 8       service obligation of a person through an agreement  
 9       entered into under subsection (b)(1)(C) if the per-  
 10      son—

11           “(A) becomes unqualified to serve on active  
 12      duty in the commissioned officer corps of the  
 13      Administration because of a circumstance not  
 14      within the control of that person; or

15           “(B) is—

16           “(i) not physically qualified for ap-  
 17      pointment; and

18           “(ii) determined to be unqualified for  
 19      service in the commissioned officer corps of  
 20      the Administration because of a physical or  
 21      medical condition that was not the result  
 22      of the person’s own misconduct or grossly  
 23      negligent conduct.

24           “(4) OBLIGATION AS DEBT TO UNITED  
 25      STATES.—An obligation to reimburse the Secretary



1 imposed under paragraph (2) is, for all purposes, a  
2 debt owed to the United States.

3 “(5) DISCHARGE IN BANKRUPTCY.—A dis-  
4 charge in bankruptcy under title 11, United States  
5 Code, that is entered less than 5 years after the ter-  
6 mination of a written agreement entered into under  
7 subsection (b)(1)(C) does not discharge the person  
8 signing the agreement from a debt arising under  
9 such agreement or under paragraph (2).

10 “(i) REGULATIONS.—The Secretary may prescribe  
11 such regulations and orders as the Secretary considers ap-  
12 propriate to carry out this section.

13 “(j) CONCURRENT COMPLETION OF SERVICE OBLI-  
14 GATIONS.—A service obligation under this section may be  
15 completed concurrently with a service obligation under  
16 section 216.”

17 (b) CLERICAL AMENDMENT.—The table of contents  
18 in section 1 of the Act entitled “An Act to authorize the  
19 Hydrographic Services Improvement Act of 1998, and for  
20 other purposes” (Public Law 107–372), as amended by  
21 section 202(c), is further amended by inserting after the  
22 item relating to section 268 the following:

“Sec. 269. Student pre-commissioning education assistance program.”

23 **SEC. 204. LIMITATION ON EDUCATIONAL ASSISTANCE.**

24 (a) IN GENERAL.—Each fiscal year, beginning with  
25 the fiscal year in which this Act is enacted, the Secretary

1 of Commerce shall ensure that the total amount expended  
 2 by the Secretary under section 267 of the National Oce-  
 3 anic and Atmospheric Administration Commissioned Offi-  
 4 cer Corps Act of 2002 (as added by section 201(a)), sec-  
 5 tion 268 of such Act (as added by section 202(a)), and  
 6 section 269 of such Act (as added by section 203(a)) does  
 7 not exceed the amount by which—

8           (1) the total amount the Secretary would pay in  
 9           that fiscal year to officer candidates under section  
 10           203(f)(1) of title 37, United States Code (as added  
 11           by section 305(d)), if such section entitled officer  
 12           candidates to pay at monthly rates equal to the  
 13           basic pay of a commissioned officer in the pay grade  
 14           O-1 with less than 2 years of service; exceeds

15           (2) the total amount the Secretary actually  
 16           pays in that fiscal year to officer candidates under  
 17           section 203(f)(1) of such title (as so added).

18           (b) OFFICER CANDIDATE DEFINED.—In this section,  
 19 the term “officer candidate” has the meaning given the  
 20 term in paragraph (4) of section 212(b) of the National  
 21 Oceanic and Atmospheric Administration Commissioned  
 22 Officer Corps Act of 2002 (33 U.S.C. 3002), as added  
 23 by section 305(e).

1 **SEC. 205. APPLICABILITY OF CERTAIN PROVISIONS OF**  
2 **TITLE 10, UNITED STATES CODE, AND EXTEN-**  
3 **SION OF CERTAIN AUTHORITIES APPLICABLE**  
4 **TO MEMBERS OF THE ARMED FORCES TO**  
5 **COMMISSIONED OFFICER CORPS.**

6 (a) APPLICABILITY OF CERTAIN PROVISIONS OF  
7 TITLE 10.—Section 261(a) (33 U.S.C. 3071(a)) is amend-  
8 ed—

9 (1) by redesignating paragraphs (13) through  
10 (16) as paragraphs (22) through (25), respectively;

11 (2) by redesignating paragraphs (7) through  
12 (12) as paragraphs (14) through (19), respectively;

13 (3) by redesignating paragraphs (4) through  
14 (6) as paragraphs (8) through (10), respectively;

15 (4) by inserting after paragraph (3) the fol-  
16 lowing:

17 “(4) Section 771, relating to unauthorized  
18 wearing of uniforms:

19 “(5) Section 774, relating to wearing religious  
20 apparel while in uniform:

21 “(6) Section 982, relating to service on State  
22 and local juries:

23 “(7) Section 1031, relating to administration of  
24 oaths.”;

25 (5) by inserting after paragraph (10), as redес-  
26 igned, the following:

1           ~~“(11) Section 1074n, relating to annual mental~~  
2           ~~health assessments.~~

3           ~~“(12) Section 1090a, relating to referrals for~~  
4           ~~mental health evaluations.~~

5           ~~“(13) Chapter 58, relating to the Benefits and~~  
6           ~~Services for members being separated or recently~~  
7           ~~separated.”; and~~

8           (6) by inserting after paragraph (19), as reded-  
9           ignated, the following:

10           ~~“(20) Subchapter I of chapter 88, relating to~~  
11           ~~Military Family Programs.~~

12           ~~“(21) Section 2005, relating to advanced edu-~~  
13           ~~cation assistance, active duty agreements, and reim-~~  
14           ~~bursement requirements.”.~~

15           (b) **EXTENSION OF CERTAIN AUTHORITIES.**—

16           (1) **NOTARIAL SERVICES.**—Section 1044a of  
17           title 10, United States Code, is amended—

18           (A) in subsection (a)(1), by striking  
19           “armed forces” and inserting “uniformed serv-  
20           ices”; and

21           (B) in subsection (b)(4), by striking  
22           “armed forces” both places it appears and in-  
23           serting “uniformed services”.

1           (2) ACCEPTANCE OF VOLUNTARY SERVICES FOR  
2           PROGRAMS SERVING MEMBERS AND THEIR FAMI-  
3           LIES.—Section 1588 of such title is amended—

4                   (A) in subsection (a)(3), in the matter be-  
5                   fore subparagraph (A), by striking “armed  
6                   forces” and inserting “uniformed services”; and

7                   (B) by adding at the end the following new  
8                   subsection:

9           “(g) SECRETARY CONCERNED FOR ACCEPTANCE OF  
10           SERVICES FOR PROGRAMS SERVING MEMBERS OF NOAA  
11           CORPS AND THEIR FAMILIES.—For purposes of the ac-  
12           ceptance of services described in subsection (a)(3), the  
13           term ‘Secretary concerned’ in subsection (a) shall include  
14           the Secretary of Commerce with respect to members of  
15           the commissioned officer corps of the National Oceanic  
16           and Atmospheric Administration.”.

17           (3) CAPSTONE COURSE FOR NEWLY SELECTED  
18           FLAG OFFICERS.—Section 2153 of such title is  
19           amended—

20                   (A) in subsection (a)—

21                           (i) by inserting “or the commissioned  
22                           officer corps of the National Oceanic and  
23                           Atmospheric Administration” after “in the  
24                           case of the Navy”; and

1                   (ii) by striking “other armed forces”  
 2                   and inserting “other uniformed services”;  
 3                   and  
 4                   (B) in subsection (b)(1), in the matter be-  
 5                   fore subparagraph (A), by inserting “or the  
 6                   Secretary of Commerce, as applicable,” after  
 7                   “the Secretary of Defense”.

8 **SEC. 206. APPLICABILITY OF CERTAIN PROVISIONS OF**  
 9                   **TITLE 37, UNITED STATES CODE.**

10           (a) **IN GENERAL.**—Subtitle E (33 U.S.C. 3071 et  
 11 seq.) is amended by inserting after section 261 the fol-  
 12 lowing:

13 **“SEC. 261A. APPLICABILITY OF CERTAIN PROVISIONS OF**  
 14                   **TITLE 37, UNITED STATES CODE.**

15           “(a) **PROVISIONS MADE APPLICABLE TO COMMIS-**  
 16 **SIGNED OFFICER CORPS.**—The provisions of law applica-  
 17 ble to the Armed Forces under the following provisions  
 18 of title 37, United States Code, shall apply to the commis-  
 19 sioned officer corps of the Administration:

20                   “(1) Section 324, relating to accession bonuses  
 21                   for new officers in critical skills.

22                   “(2) Section 403(f)(3), relating to prescribing  
 23                   regulations defining the terms ‘field duty’ and ‘sea  
 24                   duty’.

1           “(3) Section 403(1), relating to temporary con-  
2           tinuation of housing allowance for dependents of  
3           members dying on active duty.

4           “(4) Section 415, relating to initial uniform al-  
5           lowances.

6           “(5) Section 488, relating to allowances for re-  
7           cruiting expenses.

8           “(6) Section 495, relating to allowances for fu-  
9           neral honors duty.

10          “(b) REFERENCES.—The authority vested by title 37,  
11 United States Code, in the ‘military departments’, ‘the  
12 Secretary concerned’, or ‘the Secretary of Defense’ with  
13 respect to the provisions of law referred to in subsection  
14 (a) shall be exercised, with respect to the commissioned  
15 officer corps of the Administration, by the Secretary of  
16 Commerce or the Secretary’s designee.”.

17          (b) PERSONAL MONEY ALLOWANCE.—Section  
18 414(a)(2) of title 37, United States Code, is amended by  
19 inserting “or the director of the commissioned officer  
20 corps of the National Oceanic and Atmospheric Adminis-  
21 tration” after “Health Service”.

22          (c) CLERICAL AMENDMENT.—The table of contents  
23 in section 1 of the Act entitled “An Act to authorize the  
24 Hydrographic Services Improvement Act of 1998, and for

1 other purposes” (Public Law 107–372) is amended by in-  
2 serting after the item relating to section 261 the following:

“Sec. 261A. Applicability of certain provisions of title 37, United States  
Code.”.

3 **SEC. 207. PROHIBITION ON RETALIATORY PERSONNEL AC-**  
4 **TIONS.**

5 (a) **IN GENERAL.**—Subsection (a) of section 261 (33  
6 U.S.C. 3071), as amended by section 205(a), is further  
7 amended—

8 (1) by redesignating paragraphs (8) through  
9 (25) as paragraphs (9) through (26), respectively;  
10 and

11 (2) by inserting after paragraph (7) the fol-  
12 lowing:

13 “(8) Section 1034, relating to protected com-  
14 munications and prohibition of retaliatory personnel  
15 actions.”.

16 (b) **CONFORMING AMENDMENT.**—Subsection (b) of  
17 such section is amended by adding at the end the fol-  
18 lowing: “For purposes of paragraph (8) of subsection (a),  
19 the term ‘Inspector General’ in section 1034 of such title  
20 10 shall mean the Inspector General of the Department  
21 of Commerce.”.

22 (c) **REGULATIONS.**—Such section is further amended  
23 by adding at the end the following:





1 Survey) separated from such uniformed service”  
 2 after “separated from the armed forces”.

3 **SEC. 209. EMPLOYMENT AND REEMPLOYMENT RIGHTS.**

4 Section 4303(16) of title 38, United States Code, is  
 5 amended by inserting “the commissioned officer corps of  
 6 the National Oceanic and Atmospheric Administration,”  
 7 after “Public Health Service.”

8 **SEC. 210. TREATMENT OF COMMISSION IN COMMISSIONED**  
 9 **OFFICER CORPS FOR PURPOSES OF CERTAIN**  
 10 **HIRING DECISIONS.**

11 (a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et  
 12 seq.); as amended by this title, is further amended by add-  
 13 ing at the end the following:

14 **“SEC. 269A. TREATMENT OF COMMISSION IN COMMIS-**  
 15 **SIONED OFFICER CORPS AS EMPLOYMENT IN**  
 16 **ADMINISTRATION FOR PURPOSES OF CER-**  
 17 **TAIN HIRING DECISIONS.**

18 “(a) IN GENERAL.—In any case in which the Sec-  
 19 retary accepts an application for a position of employment  
 20 with the Administration and limits consideration of appli-  
 21 cations for such position to applications submitted by indi-  
 22 viduals serving in a career or career-conditional position  
 23 in the competitive service within the Administration, the  
 24 Secretary shall deem an officer who has served as an offi-  
 25 cer in the commissioned officer corps for at least 3 years

1 to be serving in a career or career-conditional position in  
 2 the competitive service within the Administration for pur-  
 3 poses of such limitation.

4 “(b) CAREER APPOINTMENTS.—If the Secretary se-  
 5 lects an application submitted by an officer described in  
 6 subsection (a) for a position described in such subsection,  
 7 the Secretary shall give such officer a career or career-  
 8 conditional appointment in the competitive service, as ap-  
 9 propriate.

10 “(c) COMPETITIVE SERVICE DEFINED.—In this sec-  
 11 tion, the term ‘competitive service’ has the meaning given  
 12 the term in section 2102 of title 5, United States Code.”.

13 (b) CLERICAL AMENDMENT.—The table of contents  
 14 in section 1 of the Act entitled “An Act to authorize the  
 15 Hydrographic Services Improvement Act of 1998, and for  
 16 other purposes” (Public Law 107–372) is amended by in-  
 17 serting after the item relating to section 269, as added  
 18 by section 203, the following new item:

“Sec. 269A. Treatment of commission in commissioned officer corps as employ-  
 ment in Administration for purposes of certain hiring deci-  
 sions.”.

## 19 **TITLE III—APPOINTMENTS AND** 20 **PROMOTION OF OFFICERS**

### 21 **SEC. 301. APPOINTMENTS.**

22 (a) ORIGINAL APPOINTMENTS.—Section 221 (33  
 23 U.S.C. 3021) is amended to read as follows:

1 **“SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINT-**  
2 **MENTS.**

3 **“(a) ORIGINAL APPOINTMENTS.—**

4 **“(1) GRADES.—**

5 **“(A) IN GENERAL.—**Except as provided in  
6 subparagraph (B), an original appointment of  
7 an officer may be made in such grades as may  
8 be appropriate for—

9 **“(i) the qualification, experience, and**  
10 **length of service of the appointee; and**

11 **“(ii) the commissioned officer corps of**  
12 **the Administration.**

13 **“(B) APPOINTMENT OF OFFICER CAN-**  
14 **DIDATES.—**

15 **“(i) LIMITATION ON GRADE.—**An  
16 original appointment of an officer can-  
17 didate, upon graduation from the basic of-  
18 ficer training program of the commissioned  
19 officer corps of the Administration, may  
20 not be made in any other grade than en-  
21 sign.

22 **“(ii) RANK.—**Officer candidates re-  
23 ceiving appointments as ensigns upon  
24 graduation from basic officer training pro-  
25 gram shall take rank according to their

1           proficiency as shown by the order of their  
2           merit at date of graduation.

3           “(2) SOURCE OF APPOINTMENTS.—An original  
4           appointment may be made from among the fol-  
5           lowing:

6           “(A) Graduates of the basic officer train-  
7           ing program of the commissioned officer corps  
8           of the Administration.

9           “(B) Graduates of the military service  
10          academies of the United States who otherwise  
11          meet the academic standards for enrollment in  
12          the training program described in subparagraph  
13          (A).

14          “(C) Graduates of the maritime academies  
15          of the States who—

16               “(i) otherwise meet the academic  
17               standards for enrollment in the training  
18               program described in subparagraph (A);

19               “(ii) completed at least 3 years of  
20               regimented training while at a maritime  
21               academy of a State; and

22               “(iii) obtained an unlimited tonnage  
23               or unlimited horsepower Merchant Mariner  
24               Credential from the United States Coast  
25               Guard.

1           “(D) Licensed officers of the United States  
2 merchant marine who have served 2 or more  
3 years aboard a vessel of the United States in  
4 the capacity of a licensed officer, who otherwise  
5 meet the academic standards for enrollment in  
6 the training program described in subparagraph  
7 (A).

8           “(3) DEFINITIONS.—In this subsection:

9           “(A) MARITIME ACADEMIES OF THE  
10 STATES.—The term ‘maritime academies of the  
11 States’ means the following:

12           “(i) California Maritime Academy,  
13 Vallejo, California.

14           “(ii) Great Lakes Maritime Academy,  
15 Traverse City, Michigan.

16           “(iii) Maine Maritime Academy,  
17 Castine, Maine.

18           “(iv) Massachusetts Maritime Acad-  
19 emy, Buzzards Bay, Massachusetts.

20           “(v) State University of New York  
21 Maritime College, Fort Schuyler, New  
22 York.

23           “(vi) Texas A&M Maritime Academy,  
24 Galveston, Texas.

1           “(B) MILITARY SERVICE ACADEMIES OF  
 2           THE UNITED STATES.—The term ‘military serv-  
 3           ice academies of the United States’ means the  
 4           following:

5                   “(i) The United States Military Acad-  
 6                   emy, West Point, New York.

7                   “(ii) The United States Naval Acad-  
 8                   emy, Annapolis, Maryland.

9                   “(iii) The United States Air Force  
 10                  Academy, Colorado Springs, Colorado.

11                  “(iv) The United States Coast Guard  
 12                  Academy, New London, Connecticut.

13                  “(v) The United States Merchant Ma-  
 14                  rine Academy, Kings Point, New York.

15           “(b) REAPPOINTMENT.—

16                   “(1) IN GENERAL.—Except as provided in para-  
 17                   graph (2), an individual who previously served in the  
 18                   commissioned officer corps of the Administration  
 19                   may be appointed by the Secretary to the grade the  
 20                   individual held prior to separation.

21                   “(2) REAPPOINTMENTS TO HIGHER GRADES.—

22                   An appointment under paragraph (1) to a position  
 23                   of importance and responsibility designated under  
 24                   section 228 may only be made by the President.

1       “(c) QUALIFICATIONS.—An appointment under sub-  
2 section (a) or (b) may not be given to an individual until  
3 the individual’s mental, moral, physical, and professional  
4 fitness to perform the duties of an officer has been estab-  
5 lished under such regulations as the Secretary shall pre-  
6 scribe.

7       “(d) PRECEDENCE OF APPOINTEES.—Appointees  
8 under this section shall take precedence in the grade to  
9 which appointed in accordance with the dates of their com-  
10 missions as commissioned officers in such grade. Ap-  
11 pointees whose dates of commission are the same shall  
12 take precedence with each other as the Secretary shall de-  
13 termine.

14       “(e) INTER-SERVICE TRANSFERS.—For inter-service  
15 transfers (as described in the Department of Defense Di-  
16 rective 1300.4 (dated December 27, 2006)) the Secretary  
17 shall—

18               “(1) coordinate with the Secretary of Defense  
19 and the Secretary of the Department in which the  
20 Coast Guard is operating to promote and streamline  
21 inter-service transfers;

22               “(2) give preference to such inter-service trans-  
23 fers for recruitment purposes as determined appro-  
24 priate by the Secretary; and



1           “(3) reappoint such inter-service transfers to  
2           the equivalent grade in the commissioned officer  
3           corps.”.

4           (b) CLERICAL AMENDMENT.—The table of contents  
5           in section 1 of the Act entitled “An Act to authorize the  
6           Hydrographic Services Improvement Act of 1998, and for  
7           other purposes” (Public Law 107–372) is amended by  
8           striking the item relating to section 221 and inserting the  
9           following:

          “Sec. 221. Original appointments and reappointments.”.

10       **SEC. 302. PERSONNEL BOARDS.**

11           Section 222 (33 U.S.C. 3022) is amended to read as  
12           follows:

13       **“SEC. 222. PERSONNEL BOARDS.**

14           “(a) CONVENING.—Not less frequently than once  
15           each year and at such other times as the Secretary deter-  
16           mines necessary, the Secretary shall convene a personnel  
17           board.

18           “(b) MEMBERSHIP.—

19           “(1) IN GENERAL.—A board convened under  
20           subsection (a) shall consist of 5 or more officers who  
21           are serving in or above the permanent grade of the  
22           officers under consideration by the board.

23           “(2) RETIRED OFFICERS.—Officers on the re-  
24           tired list may be recalled to serve on such personnel  
25           boards as the Secretary considers necessary.

1           “(3) NO MEMBERSHIP ON 2 SUCCESSIVE  
2           BOARDS.—No officer may be a member of 2 succes-  
3           sive personnel boards convened to consider officers  
4           of the same grade for promotion or separation.

5           “(e) DUTIES.—Each personnel board shall—

6           “(1) recommend to the Secretary such changes  
7           as may be necessary to correct any erroneous posi-  
8           tion on the lineal list that was caused by administra-  
9           tive error; and

10          “(2) make selections and recommendations to  
11          the Secretary and the President for the appoint-  
12          ment, promotion, involuntary separation, continu-  
13          ation, and involuntary retirement of officers in the  
14          commissioned officer corps of the Administration as  
15          prescribed in this title.

16          “(d) ACTION ON RECOMMENDATIONS NOT ACCEPT-  
17          ABLE.—If any recommendation by a board convened  
18          under subsection (a) is not accepted by the Secretary or  
19          the President, the board shall make such further rec-  
20          ommendations as the Secretary or the President considers  
21          appropriate.

22          “(e) AUTHORITY FOR OFFICERS TO OPT OUT OF  
23          PROMOTION CONSIDERATION.—

24          “(1) IN GENERAL.—The Director of the Na-  
25          tional Oceanic and Atmospheric Administration

1 Commissioned Officer Corps may provide that an of-  
2 ficer, upon the officer's request and with the ap-  
3 proval of the Director, be excluded from consider-  
4 ation for promotion by a personnel board convened  
5 under this section.

6 “(2) APPROVAL.—The Director shall approve a  
7 request made by an officer under subsection (a) only  
8 if—

9 “(A) the basis for the request is to allow  
10 the officer to complete a broadening assign-  
11 ment, advanced education, another assignment  
12 of significant value to the Administration, a ca-  
13 reer progression requirement delayed by the as-  
14 signment or education, or a qualifying personal  
15 or professional circumstance, as determined by  
16 the Director;

17 “(B) the Director determines the exclusion  
18 from consideration is in the best interest of the  
19 Administration; and

20 “(C) the officer has not previously failed  
21 selection for promotion to the grade for which  
22 the officer requests the exclusion from consider-  
23 ation.”.

1 **SEC. 303. POSITIONS OF IMPORTANCE AND RESPONSIBILITY.**  
 2 **BILITY.**

3 Section 228 (33 U.S.C. 3028) is amended—

4 (1) in subsection (e)—

5 (A) in the first sentence, by striking “The  
 6 Secretary shall designate one position under  
 7 this section” and inserting “The President shall  
 8 designate one position”; and

9 (B) in the second sentence, by striking  
 10 “That position shall be filled by” and inserting  
 11 “The President shall fill that position by ap-  
 12 pointing, by and with the advice and consent of  
 13 the Senate.”;

14 (2) in subsection (d)(2), by inserting “or imme-  
 15 diately beginning a period of terminal leave” after  
 16 “for which a higher grade is designated”;

17 (3) by amending subsection (e) to read as fol-  
 18 lows:

19 “(e) **LIMIT ON NUMBER OF OFFICERS APPOINTED.—**

20 The total number of officers serving on active duty at any  
 21 one time in the grade of rear admiral (lower half) or above  
 22 may not exceed five, with only one serving in the grade  
 23 of vice admiral.”; and

24 (4) in subsection (f), by inserting “or in a pe-  
 25 riod of annual leave used at the end of the appoint-  
 26 ment” after “serving in that grade”.

1 **SEC. 304. TEMPORARY APPOINTMENTS.**

2 (a) **IN GENERAL.**—Section 229 (33 U.S.C. 3029) is  
3 amended to read as follows:

4 **“SEC. 229. TEMPORARY APPOINTMENTS.**

5 **“(a) APPOINTMENTS BY PRESIDENT.**—Temporary  
6 appointments in the grade of ensign, lieutenant junior  
7 grade, or lieutenant may be made by the President.

8 **“(b) TERMINATION.**—A temporary appointment to a  
9 position under subsection (a) shall terminate upon ap-  
10 proval of a permanent appointment for such position made  
11 by the President.

12 **“(c) ORDER OF PRECEDENCE.**—Appointees under  
13 subsection (a) shall take precedence in the grade to which  
14 appointed in accordance with the dates of their appoint-  
15 ments as officers in such grade. The order of precedence  
16 of appointees who are appointed on the same date shall  
17 be determined by the Secretary.

18 **“(d) ANY ONE GRADE.**—When determined by the  
19 Secretary to be in the best interest of the commissioned  
20 officer corps, officers in any permanent grade may be tem-  
21 porarily promoted one grade by the President. Any such  
22 temporary promotion terminates upon the transfer of the  
23 officer to a new assignment.”.

24 (b) **CLERICAL AMENDMENT.**—The table of contents  
25 in section 1 of the Act entitled “An Act to authorize the  
26 Hydrographic Services Improvement Act of 1998, and for

1 other purposes” (Public Law 107-372) is amended by  
 2 striking the item relating to section 229 and inserting the  
 3 following:

“Sec. 229. Temporary appointments.”

4 **SEC. 305. OFFICER CANDIDATES.**

5 (a) IN GENERAL.—Subtitle B (33 U.S.C. 3021 et  
 6 seq.) is amended by adding at the end the following:

7 **“SEC. 234. OFFICER CANDIDATES.**

8 “(a) DETERMINATION OF NUMBER.—The Secretary  
 9 shall determine the number of appointments of officer can-  
 10 didates.

11 “(b) APPOINTMENT.—Appointment of officer can-  
 12 didates shall be made under regulations, which the Sec-  
 13 retary shall prescribe, including regulations with respect  
 14 to determining age limits, methods of selection of officer  
 15 candidates, term of service as an officer candidate before  
 16 graduation from the program, and all other matters af-  
 17 fecting such appointment.

18 “(c) DISMISSAL.—The Secretary may dismiss from  
 19 the basic officer training program of the Administration  
 20 any officer candidate who, during the officer candidate’s  
 21 term as an officer candidate, the Secretary considers un-  
 22 satisfactory in either academics or conduct, or not adapted  
 23 for a career in the commissioned officer corps of the Ad-  
 24 ministration. Officer candidates shall be subject to rules  
 25 governing discipline prescribed by the Director of the Na-

1 tional Oceanic and Atmospheric Administration Commis-  
2 sioned Officer Corps.

3 “(d) AGREEMENT.—

4 “(1) IN GENERAL.—Each officer candidate  
5 shall sign an agreement with the Secretary in ac-  
6 cordance with section 216(a)(2) regarding the officer  
7 candidate’s term of service in the commissioned offi-  
8 cer corps of the Administration.

9 “(2) ELEMENTS.—An agreement signed by an  
10 officer candidate under paragraph (1) shall provide  
11 that the officer candidate agrees to the following:

12 “(A) That the officer candidate will com-  
13 plete the course of instruction at the basic offi-  
14 cer training program of the Administration.

15 “(B) That upon graduation from such pro-  
16 gram, the officer candidate—

17 “(i) will accept an appointment, if  
18 tendered, as an officer; and

19 “(ii) will serve on active duty for at  
20 least 4 years immediately after such ap-  
21 pointment.

22 “(e) REGULATIONS.—The Secretary shall prescribe  
23 regulations to carry out this section. Such regulations  
24 shall include—

1           ~~“(1) standards for determining what constitutes~~  
 2           ~~a breach of an agreement signed under subsection~~  
 3           ~~(d)(1); and~~

4           ~~“(2) procedures for determining whether such a~~  
 5           ~~breach has occurred.~~

6           ~~“(f) REPAYMENT.—An officer candidate or former~~  
 7           ~~officer candidate who does not fulfill the terms of the obli-~~  
 8           ~~gation to serve as specified under subsection (d) shall be~~  
 9           ~~subject to the repayment provisions of section 216(b).”.~~

10          ~~(b) CLERICAL AMENDMENT.—The table of contents~~  
 11          ~~in section 1 of the Act entitled “An Act to authorize the~~  
 12          ~~Hydrographic Services Improvement Act of 1998, and for~~  
 13          ~~other purposes” (Public Law 107–372) is amended by in-~~  
 14          ~~serting after the item relating to section 233 the following:~~  
             ~~“Sec. 234. Officer candidates.”.~~

15          ~~(e) OFFICER CANDIDATE DEFINED.—Section 212(b)~~  
 16          ~~(33 U.S.C. 3002(b)) is amended—~~

17                 ~~(1) by redesignating paragraphs (4) through~~  
 18                 ~~(6) as paragraphs (5) through (7), respectively; and~~  
 19                 ~~(2) by inserting after paragraph (3) the fol-~~  
 20                 ~~lowing:~~

21                 ~~“(4) OFFICER CANDIDATE.—The term ‘officer~~  
 22                 ~~candidate’ means an individual who is enrolled in the~~  
 23                 ~~basic officer training program of the Administration~~  
 24                 ~~and is under consideration for appointment as an of-~~  
 25                 ~~ficer under section 221(a)(2)(A).”.~~



1       (d) **PAY FOR OFFICER CANDIDATES.**—Section 203 of  
 2 title 37, United States Code, is amended by adding at the  
 3 end the following:

4       “(f)(1) An officer candidate enrolled in the basic offi-  
 5 cer training program of the commissioned officer corps of  
 6 the National Oceanic and Atmospheric Administration is  
 7 entitled, while participating in such program, to monthly  
 8 officer candidate pay at monthly rates equal to the basic  
 9 pay of an enlisted member in the pay grade E-5 with less  
 10 than 2 years of service.

11       “(2) An individual who graduates from such program  
 12 shall receive credit for the time spent participating in such  
 13 program as if such time were time served while on active  
 14 duty as a commissioned officer. If the individual does not  
 15 graduate from such program, such time shall not be con-  
 16 sidered creditable for active duty or pay.”.

17 **SEC. 306. PROCUREMENT OF PERSONNEL.**

18       (a) **IN GENERAL.**—Subtitle B (33 U.S.C. 3021 et  
 19 seq.), as amended by section 305(a), is further amended  
 20 by adding at the end the following:

21 **“SEC. 235. PROCUREMENT OF PERSONNEL.**

22       “‘The Secretary may make such expenditures as the  
 23 Secretary considers necessary in order to obtain recruits  
 24 for the commissioned officer corps of the Administration,  
 25 including advertising.’”.

1           (b) CLERICAL AMENDMENT.—The table of contents  
 2 in section 1 of the Act entitled “An Act to authorize the  
 3 Hydrographic Services Improvement Act of 1998, and for  
 4 other purposes” (Public Law 107-372), as amended by  
 5 section 305(b), is further amended by inserting after the  
 6 item relating to section 234 the following:

“235. Procurement of personnel.”.

7 **SEC. 307. CAREER INTERMISSION PROGRAM.**

8           (a) IN GENERAL.—Subtitle B (33 U.S.C. 3021 et  
 9 seq.), as amended by section 306(a), is further amended  
 10 by adding at the end the following:

11 **“SEC. 236. CAREER FLEXIBILITY TO ENHANCE RETENTION**  
 12 **OF OFFICERS.**

13           “(a) PROGRAMS AUTHORIZED.—The Secretary may  
 14 carry out a program under which officers may be inac-  
 15 tivated from active duty in order to meet personal or pro-  
 16 fessional needs and returned to active duty at the end of  
 17 such period of inactivation from active duty.

18           “(b) PERIOD OF INACTIVATION FROM ACTIVE DUTY;  
 19 EFFECT OF INACTIVATION.—

20           “(1) IN GENERAL.—The period of inactivation  
 21 from active duty under a program under this section  
 22 of an officer participating in the program shall be  
 23 such period as the Secretary shall specify in the  
 24 agreement of the officer under subsection (c), except  
 25 that such period may not exceed 3 years.

1           “(2) EXCLUSION FROM RETIREMENT.—Any pe-  
2           riod of participation of an officer in a program  
3           under this section shall not count toward eligibility  
4           for retirement or computation of retired pay under  
5           subtitle C.

6           “(e) AGREEMENT.—Each officer who participates in  
7           a program under this section shall enter into a written  
8           agreement with the Secretary under which that officer  
9           shall agree as follows:

10           “(1) To undergo during the period of the inac-  
11           tivation of the officer from active duty under the  
12           program such inactive duty training as the Director  
13           of the National Oceanic and Atmospheric Adminis-  
14           tration Commissioned Officer Corps shall require in  
15           order to ensure that the officer retains proficiency,  
16           at a level determined by the Director to be suffi-  
17           cient, in the technical skills, professional qualifica-  
18           tions, and physical readiness of the officer during  
19           the inactivation of the officer from active duty.

20           “(2) Following completion of the period of the  
21           inactivation of the officer from active duty under the  
22           program, to serve 2 months on active duty for each  
23           month of the period of the inactivation of the officer  
24           from active duty under the program.

1       “(d) CONDITIONS OF RELEASE.—The Secretary  
2 shall—

3           “(1) prescribe regulations specifying the guide-  
4 lines regarding the conditions of release that must  
5 be considered and addressed in the agreement re-  
6 quired by subsection (c); and

7           “(2) at a minimum, prescribe the procedures  
8 and standards to be used to instruct an officer on  
9 the obligations to be assumed by the officer under  
10 paragraph (2) of such subsection while the officer is  
11 released from active duty.

12       “(e) ORDER TO ACTIVE DUTY.—Under regulations  
13 prescribed by the Secretary, an officer participating in a  
14 program under this section may, in the discretion of the  
15 Secretary, be required to terminate participation in the  
16 program and be ordered to active duty.

17       “(f) PAY AND ALLOWANCES.—

18           “(1) BASIC PAY.—During each month of par-  
19 ticipation in a program under this section, an officer  
20 who participates in the program shall be paid basic  
21 pay in an amount equal to two-thirtieths of the  
22 amount of monthly basic pay to which the officer  
23 would otherwise be entitled under section 204 of title  
24 37, United States Code, as a member of the uni-  
25 formed services on active duty in the grade and

1 years of service of the officer when the officer com-  
2 mences participation in the program.

3 ~~“(2) SPECIAL OR INCENTIVE PAY OR BONUS.—~~

4 ~~“(A) PROHIBITION.—An officer who par-~~  
5 ~~ticipates in a program under this section shall~~  
6 ~~not, while participating in the program, be paid~~  
7 ~~any special or incentive pay or bonus to which~~  
8 ~~the officer is otherwise entitled under an agree-~~  
9 ~~ment under chapter 5 of title 37, United States~~  
10 ~~Code, that is in force when the officer com-~~  
11 ~~mences participation in the program.~~

12 ~~“(B) NOT TREATED AS FAILURE TO PER-~~  
13 ~~FORM SERVICES.—The inactivation from active~~  
14 ~~duty of an officer participating in a program~~  
15 ~~under this section shall not be treated as a fail-~~  
16 ~~ure of the officer to perform any period of serv-~~  
17 ~~ice required of the officer in connection with an~~  
18 ~~agreement for a special or incentive pay or~~  
19 ~~bonus under chapter 5 of title 37, United~~  
20 ~~States Code, that is in force when the officer~~  
21 ~~commences participation in the program.~~

22 ~~“(3) RETURN TO ACTIVE DUTY.—~~

23 ~~“(A) SPECIAL OR INCENTIVE PAY OR~~  
24 ~~BONUS.—Subject to subparagraph (B), upon~~  
25 ~~the return of an officer to active duty after~~

1 completion by the officer of participation in a  
2 program under this section—

3 “(i) any agreement entered into by  
4 the officer under chapter 5 of title 37,  
5 United States Code, for the payment of a  
6 special or incentive pay or bonus that was  
7 in force when the officer commenced par-  
8 ticipation in the program shall be revived,  
9 with the term of such agreement after re-  
10 vival being the period of the agreement re-  
11 maining to run when the officer com-  
12 menced participation in the program; and

13 “(ii) any special or incentive pay or  
14 bonus shall be payable to the officer in ac-  
15 cordance with the terms of the agreement  
16 concerned for the term specified in clause  
17 (i).

18 “(B) LIMITATION.—

19 “(i) IN GENERAL.—Subparagraph (A)  
20 shall not apply to any special or incentive  
21 pay or bonus otherwise covered by that  
22 subparagraph with respect to an officer if,  
23 at the time of the return of the officer to  
24 active duty as described in that subpara-  
25 graph—

1                   “(I) such pay or bonus is no  
2                   longer authorized by law; or

3                   “(II) the officer does not satisfy  
4                   eligibility criteria for such pay or  
5                   bonus as in effect at the time of the  
6                   return of the officer to active duty.

7                   “(ii) PAY OR BONUS CEASES BEING  
8                   AUTHORIZED.—Subparagraph (A) shall  
9                   cease to apply to any special or incentive  
10                  pay or bonus otherwise covered by that  
11                  subparagraph with respect to an officer if,  
12                  during the term of the revived agreement  
13                  of the officer under subparagraph (A)(i),  
14                  such pay or bonus ceases being authorized  
15                  by law.

16                  “(C) REPAYMENT.—An officer who is in-  
17                  eligible for payment of a special or incentive  
18                  pay or bonus otherwise covered by this para-  
19                  graph by reason of subparagraph (B)(i)(II)  
20                  shall be subject to the requirements for repay-  
21                  ment of such pay or bonus in accordance with  
22                  the terms of the applicable agreement of the of-  
23                  ficer under chapter 5 of title 37, United States  
24                  Code.

1           “(D) REQUIRED SERVICE IS ADDI-  
2 TIONAL.—Any service required of an officer  
3 under an agreement covered by this paragraph  
4 after the officer returns to active duty as de-  
5 scribed in subparagraph (A) shall be in addition  
6 to any service required of the officer under an  
7 agreement under subsection (c).

8           “(4) TRAVEL AND TRANSPORTATION ALLOW-  
9 ANCE.—

10           “(A) IN GENERAL.—Subject to subpara-  
11 graph (B), an officer who participates in a pro-  
12 gram under this section is entitled, while par-  
13 ticipating in the program, to the travel and  
14 transportation allowances authorized by section  
15 474 of title 37, United States Code, for—

16           “(i) travel performed from the resi-  
17 dence of the officer, at the time of release  
18 from active duty to participate in the pro-  
19 gram, to the location in the United States  
20 designated by the officer as the officer’s  
21 residence during the period of participation  
22 in the program; and

23           “(ii) travel performed to the residence  
24 of the officer upon return to active duty at



1           the end of the participation of the officer  
2           in the program.

3           “(B) SINGLE RESIDENCE.—An allowance  
4           is payable under this paragraph only with re-  
5           spect to travel of an officer to and from a single  
6           residence.

7           “(5) LEAVE BALANCE.—An officer who partici-  
8           pates in a program under this section is entitled to  
9           carry forward the leave balance existing as of the  
10          day on which the officer begins participation and ac-  
11          cumulated in accordance with section 701 of title 10,  
12          but not to exceed 60 days.

13          “(g) PROMOTION.—

14           “(1) IN GENERAL.—An officer participating in  
15           a program under this section shall not, while partici-  
16           pating in the program, be eligible for consideration  
17           for promotion under subtitle B.

18           “(2) RETURN TO SERVICE.—Upon the return of  
19           an officer to active duty after completion by the offi-  
20           cer of participation in a program under this sec-  
21           tion—

22           “(A) the Secretary may adjust the date of  
23           rank of the officer in such manner as the Sec-  
24           retary shall prescribe in regulations for pur-  
25           poses of this section; and

1           “(B) the officer shall be eligible for consid-  
 2           eration for promotion when officers of the same  
 3           competitive category, grade, and seniority are  
 4           eligible for consideration for promotion.

5           “(h) CONTINUED ENTITLEMENTS.—An officer par-  
 6           ticipating in a program under this section shall, while par-  
 7           ticipating in the program, be treated as a member of the  
 8           uniformed services on active duty for a period of more  
 9           than 30 days for purposes of—

10           “(1) the entitlement of the officer and of the  
 11           dependents of the officer to medical and dental care  
 12           under the provisions of chapter 55 of title 10; and

13           “(2) retirement or separation for physical dis-  
 14           ability under the provisions of subtitle C.”.

15           (b) CLERICAL AMENDMENT.—The table of contents  
 16           in section 1 of the Act entitled “An Act to authorize the  
 17           Hydrographic Services Improvement Act of 1998, and for  
 18           other purposes” (Public Law 107-372), as amended by  
 19           section 306(b), is further amended by inserting after the  
 20           item relating to section 235 the following:

“Sec. 236. Career flexibility to enhance retention of officers.”.

21           **TITLE IV—SEPARATION AND**  
 22           **RETIREMENT OF OFFICERS**

23           **SEC. 401. INVOLUNTARY RETIREMENT OR SEPARATION.**

24           Section 241 (33 U.S.C. 3041) is amended by adding  
 25           at the end the following:

1       “(d) DEFERMENT OF RETIREMENT OR SEPARATION  
2 FOR MEDICAL REASONS.—

3           “(1) IN GENERAL.—If the Secretary determines  
4 that the evaluation of the medical condition of an of-  
5 ficer requires hospitalization or medical observation  
6 that cannot be completed with confidence in a man-  
7 ner consistent with the officer’s well-being before the  
8 date on which the officer would otherwise be re-  
9 quired to retire or be separated under this section,  
10 the Secretary may defer the retirement or separation  
11 of the officer.

12           “(2) CONSENT REQUIRED.—A deferment may  
13 only be made with the written consent of the officer  
14 involved. If the officer does not provide written con-  
15 sent to the deferment, the officer shall be retired or  
16 separated as scheduled.

17           “(3) LIMITATION.—A deferment of retirement  
18 or separation under this subsection may not extend  
19 for more than 30 days after completion of the eval-  
20 uation requiring hospitalization or medical observa-  
21 tion.”.

22 **SEC. 402. SEPARATION PAY.**

23       Section 242 (33 U.S.C. 3042) is amended by adding  
24 at the end the following:

1       “~~(d) EXCEPTION.—An officer discharged for twice~~  
 2  ~~failing selection for promotion to the next higher grade~~  
 3  ~~is not entitled to separation pay under this section if the~~  
 4  ~~officer—~~

5           “~~(1) expresses a desire not to be selected for~~  
 6  ~~promotion; or~~

7           “~~(2) requests removal from the list of select-~~  
 8  ~~ees.”.~~

9   **1. SHORT TITLE; TABLE OF CONTENTS.**

10       (a) *SHORT TITLE.*—*This Act may be cited as the “Na-*  
 11 *tional Oceanic and Atmospheric Administration Commis-*  
 12 *sioned Officer Corps Amendments Act of 2019”.*

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

*Sec. 1. Short title; table of contents.*

*Sec. 2. References to National Oceanic and Atmospheric Administration Commis-*  
*sioned Officer Corps Act of 2002.*

**TITLE I—GENERAL PROVISIONS**

*Sec. 101. Strength and distribution in grade.*

*Sec. 102. Recalled officers.*

*Sec. 103. Obligated service requirement.*

*Sec. 104. Training and physical fitness.*

*Sec. 105. Aviation accession training programs.*

*Sec. 106. Recruiting materials.*

*Sec. 107. Technical correction.*

**TITLE II—PARITY AND RECRUITMENT**

*Sec. 201. Education loans.*

*Sec. 202. Interest payments.*

*Sec. 203. Student pre-commissioning program.*

*Sec. 204. Limitation on educational assistance.*

*Sec. 205. Applicability of certain provisions of title 10, United States Code, and*  
*extension of certain authorities applicable to members of the*  
*Armed Forces to commissioned officer corps.*

*Sec. 206. Applicability of certain provisions of title 37, United States Code.*

*Sec. 207. Prohibition on retaliatory personnel actions.*

*Sec. 208. Application of certain provisions of competitive service law.*



1 **“SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.**

2       “(a) *GRADES.*—*The commissioned grades in the com-*  
3 *missioned officer corps of the Administration are the fol-*  
4 *lowing, in relative rank with officers of the Navy:*

5               “(1) *Vice admiral.*

6               “(2) *Rear admiral.*

7               “(3) *Rear admiral (lower half).*

8               “(4) *Captain.*

9               “(5) *Commander.*

10              “(6) *Lieutenant commander.*

11              “(7) *Lieutenant.*

12              “(8) *Lieutenant (junior grade).*

13              “(9) *Ensign.*

14       “(b) *GRADE DISTRIBUTION.*—*The Secretary shall pre-*  
15 *scribe, with respect to the distribution on the lineal list in*  
16 *grade, the percentages applicable to the grades set forth in*  
17 *subsection (a).*

18       “(c) *ANNUAL COMPUTATION OF NUMBER IN GRADE.*—

19              “(1) *IN GENERAL.*—*Not less frequently than once*  
20 *each year, the Secretary shall make a computation to*  
21 *determine the number of officers on the lineal list au-*  
22 *thorized to be serving in each grade.*

23              “(2) *METHOD OF COMPUTATION.*—*The number*  
24 *in each grade shall be computed by applying the ap-*  
25 *plicable percentage to the total number of such officers*

1       *serving on active duty on the date the computation is*  
2       *made.*

3           “(3) *FRACTIONS.*—*If a final fraction occurs in*  
4       *computing the authorized number of officers in a*  
5       *grade, the nearest whole number shall be taken. If the*  
6       *fraction is one-half, the next higher whole number*  
7       *shall be taken.*

8           “(d) *TEMPORARY INCREASE IN NUMBERS.*—*The total*  
9       *number of officers authorized by law to be on the lineal list*  
10       *during a fiscal year may be temporarily exceeded if the av-*  
11       *erage number on that list during that fiscal year does not*  
12       *exceed the authorized number.*

13          “(e) *POSITIONS OF IMPORTANCE AND RESPONSIB-*  
14       *LITY.*—*Officers serving in positions designated under sec-*  
15       *tion 228(a) and officers recalled from retired status shall*  
16       *not be counted when computing authorized strengths under*  
17       *subsection (c) and shall not count against those strengths.*

18          “(f) *PRESERVATION OF GRADE AND PAY.*—*No officer*  
19       *may be reduced in grade or pay or separated from the com-*  
20       *missioned officer corps of the Administration as the result*  
21       *of a computation made to determine the authorized number*  
22       *of officers in the various grades.”*

23       **SEC. 102. RECALLED OFFICERS.**

24          “(a) *IN GENERAL.*—*Section 215 (33 U.S.C. 3005) is*  
25       *amended to read as follows:*

1 **“SEC. 215. NUMBER OF AUTHORIZED COMMISSIONED OFFI-**  
 2 **CERS.**

3 “(a) *IN GENERAL.*—The total number of authorized  
 4 commissioned officers on the lineal list of the commissioned  
 5 officer corps of the Administration shall not exceed 500.

6 “(b) *POSITIONS OF IMPORTANCE AND RESPONSI-*  
 7 *BILITY.*—Officers serving in positions designated under sec-  
 8 tion 228 and officers recalled from retired status or detailed  
 9 to an agency other than the Administration—

10 “(1) may not be counted in determining the total  
 11 number of authorized officers on the lineal list under  
 12 this section; and

13 “(2) may not count against such number.”.

14 (b) *CLERICAL AMENDMENT.*—The table of contents in  
 15 section 1 of the Act entitled “An Act to reauthorize the Hy-  
 16 drographic Services Improvement Act of 1998, and for other  
 17 purposes” (Public Law 107–372) is amended by striking  
 18 the item relating to section 215 and inserting the following:

“Sec. 215. Number of authorized commissioned officers.”.

19 **SEC. 103. OBLIGATED SERVICE REQUIREMENT.**

20 (a) *IN GENERAL.*—Subtitle A (33 U.S.C. 3001 et seq.)  
 21 is amended by adding at the end the following:

22 **“SEC. 216. OBLIGATED SERVICE REQUIREMENT.**

23 “(a) *IN GENERAL.*—

24 “(1) *REGULATIONS.*—The Secretary shall pre-  
 25 scribe the obligated service requirements for appoint-



1        *ments, training, promotions, separations, continu-*  
2        *ations, and retirements of officers not otherwise cov-*  
3        *ered by law.*

4            “(2) *WRITTEN AGREEMENTS.—The Secretary*  
5        *and officers shall enter into written agreements that*  
6        *describe the officers’ obligated service requirements*  
7        *prescribed under paragraph (1) in return for such ap-*  
8        *pointments, training, promotions, separations, con-*  
9        *tinuations, and retirements as the Secretary considers*  
10       *appropriate.*

11          “(b) *REPAYMENT FOR FAILURE TO SATISFY REQUIRE-*  
12       *MENTS.—*

13            “(1) *IN GENERAL.—The Secretary may require*  
14        *an officer who fails to meet the service requirements*  
15        *prescribed under subsection (a)(1) to reimburse the*  
16        *Secretary in an amount that bears the same ratio to*  
17        *the total costs of the training provided to that officer*  
18        *by the Secretary as the unserved portion of active*  
19        *duty bears to the total period of active duty the officer*  
20        *agreed to serve.*

21            “(2) *OBLIGATION AS DEBT TO UNITED STATES.—*  
22        *An obligation to reimburse the Secretary under para-*  
23        *graph (1) is, for all purposes, a debt owed to the*  
24        *United States.*

1           “(3) *DISCHARGE IN BANKRUPTCY.*—A discharge  
2           in bankruptcy under title 11 that is entered less than  
3           five years after the termination of a written agree-  
4           ment entered into under subsection (a)(2) does not  
5           discharge the individual signing the agreement from  
6           a debt arising under such agreement.

7           “(c) *WAIVER OR SUSPENSION OF COMPLIANCE.*—The  
8           Secretary may waive the service obligation of an officer  
9           who—

10           “(1) becomes unqualified to serve on active duty  
11           in the commissioned officer corps of the Administra-  
12           tion because of a circumstance not within the control  
13           of that officer; or

14           “(2) is—

15           “(A) not physically qualified for appoint-  
16           ment; and

17           “(B) determined to be unqualified for serv-  
18           ice in the commissioned officer corps of the Ad-  
19           ministration because of a physical or medical  
20           condition that was not the result of the officer’s  
21           own misconduct or grossly negligent conduct.”.

22           “(b) *CLERICAL AMENDMENT.*—The table of contents in  
23           section 1 of the Act entitled “An Act to reauthorize the Hy-  
24           drographic Services Improvement Act of 1998, and for other

1 purposes” (Public Law 107–372) is amended by inserting  
2 after the item relating to section 215 the following:

“Sec. 216. Obligated service requirement.”.

3 **SEC. 104. TRAINING AND PHYSICAL FITNESS.**

4 (a) *IN GENERAL.*—Subtitle A (33 U.S.C. 3001 et seq.),  
5 as amended by section 103(a), is further amended by add-  
6 ing at the end the following:

7 **“SEC. 217. TRAINING AND PHYSICAL FITNESS.**

8 “(a) *TRAINING.*—The Secretary may take such meas-  
9 ures as may be necessary to ensure that officers are pre-  
10 pared to carry out their duties in the commissioned officer  
11 corps of the Administration and proficient in the skills nec-  
12 essary to carry out such duties. Such measures may include  
13 the following:

14 “(1) Carrying out training programs and cor-  
15 respondence courses, including establishing and oper-  
16 ating a basic officer training program to provide ini-  
17 tial indoctrination and maritime vocational training  
18 for officer candidates as well as refresher training,  
19 mid-career training, aviation training, and such  
20 other training as the Secretary considers necessary for  
21 officer development and proficiency.

22 “(2) Providing officers and officer candidates  
23 with educational materials.

24 “(3) Acquiring such equipment as may be nec-  
25 essary for training and instructional purposes.

1       “(b) *PHYSICAL FITNESS.*—*The Secretary shall ensure*  
 2 *that officers maintain a high physical state of readiness by*  
 3 *establishing standards of physical fitness for officers that*  
 4 *are substantially equivalent to those prescribed for officers*  
 5 *in the Coast Guard.*”.

6       (b) *CLERICAL AMENDMENT.*—*The table of contents in*  
 7 *section 1 of the Act entitled “An Act to reauthorize the Hy-*  
 8 *drographic Services Improvement Act of 1998, and for other*  
 9 *purposes” (Public Law 107–372), as amended by section*  
 10 *103(b), is further amended by inserting after the item relat-*  
 11 *ing to section 216 the following:*

*“Sec. 217. Training and physical fitness.”.*

12 **SEC. 105. AVIATION ACCESSION TRAINING PROGRAMS.**

13       (a) *IN GENERAL.*—*Subtitle A (33 U.S.C. 3001 et seq.),*  
 14 *as amended by section 104(a), is further amended by add-*  
 15 *ing at the end the following:*

16 **“SEC. 218. AVIATION ACCESSION TRAINING PROGRAMS.**

17       “(a) *DEFINITIONS.*—*In this section:*

18               “(1) *ADMINISTRATOR.*—*The term ‘Adminis-*  
 19 *trator’ means the Under Secretary of Commerce for*  
 20 *Oceans and Atmosphere and the Administrator of the*  
 21 *National Oceanic and Atmospheric Administration.*

22               “(2) *MEMBER OF THE PROGRAM.*—*The term*  
 23 *‘member of the program’ means a student who is en-*  
 24 *rolled in the program.*

1           “(3) *PROGRAM.*—*The term ‘program’ means an*  
2 *aviation accession training program of the commis-*  
3 *sioned officer corps of the Administration established*  
4 *pursuant to subsection (b).*

5           “(b) *AVIATION ACCESSION TRAINING PROGRAMS.*—

6           “(1) *ESTABLISHMENT AUTHORIZED.*—*The Ad-*  
7 *ministrator, under regulations prescribed by the Sec-*  
8 *retary, shall establish and maintain one or more*  
9 *aviation accession training programs for the commis-*  
10 *sioned officer corps of the Administration at institu-*  
11 *tions described in paragraph (2).*

12           “(2) *INSTITUTIONS DESCRIBED.*—*An institution*  
13 *described in this paragraph is an educational institu-*  
14 *tion—*

15           “(A) *that requests to enter into an agree-*  
16 *ment with the Administrator providing for the*  
17 *establishment of the program at the institution;*

18           “(B) *that has, as a part of its curriculum,*  
19 *a four-year baccalaureate program of profes-*  
20 *sional flight and piloting instruction that is ac-*  
21 *credited by the Aviation Accreditation Board*  
22 *International;*

23           “(C) *that is located in a geographic area*  
24 *that—*

1           “(i) experiences a wide variation in  
 2           climate-related activity, including frequent  
 3           high winds, convective activity (including  
 4           tornadoes), periods of low visibility, heat,  
 5           and snow and ice episodes, to provide op-  
 6           portunities for pilots to demonstrate skill in  
 7           all weather conditions compatible with fu-  
 8           ture encounters during their service in the  
 9           commissioned officer corps of the Adminis-  
 10          tration; and

11           “(ii) has a climate that can accommo-  
 12          date both primary and advanced flight  
 13          training activity at least 75 percent of the  
 14          year; and

15           “(D) at which the Administrator determines  
 16          that—

17           “(i) there will be at least one student  
 18          enrolled in the program; and

19           “(ii) the provisions of this section are  
 20          otherwise satisfied.

21           “(3) LIMITATIONS IN CONNECTION WITH PAR-  
 22          TICULAR INSTITUTIONS.—The program may not be es-  
 23          tablished or maintained at an institution unless—

24           “(A) the senior commissioned officer or em-  
 25          ployee of the commissioned officer corps of the

1           *Administration who is assigned as an advisor to*  
2           *the program at that institution is given the aca-*  
3           *demical rank of adjunct professor; and*

4                   “(B) *the institution fulfills the terms of its*  
5                   *agreement with the Administrator.*

6           “(4) *MEMBERSHIP IN CONNECTION WITH STATUS*  
7           *AS STUDENT.—At institutions at which the program*  
8           *is established, the membership of students in the pro-*  
9           *gram shall be elective, as provided by State law or the*  
10           *authorities of the institution concerned.*

11           “(c) *MEMBERSHIP.—*

12                   “(1) *ELIGIBILITY.—To be eligible for member-*  
13                   *ship in the program, an individual must—*

14                           “(A) *be a student at an institution at which*  
15                           *the program is established;*

16                           “(B) *be a citizen of the United States;*

17                           “(C) *contract in writing, with the consent*  
18                           *of a parent or guardian if a minor, with the Ad-*  
19                           *ministrator, to—*

20                                   “(i) *accept an appointment, if offered,*  
21                                   *as a commissioned officer in the commis-*  
22                                   *sioned officer corps of the Administration;*  
23                                   *and*

1                   “(ii) serve in the commissioned officer  
2                   corps of the Administration for not fewer  
3                   than four years;

4                   “(D) enroll in—

5                   “(i) a four-year baccalaureate program  
6                   of professional flight and piloting instruc-  
7                   tion; and

8                   “(ii) other training or education, in-  
9                   cluding basic officer training, which is pre-  
10                  scribed by the Administrator as meeting the  
11                  preliminary requirement for admission to  
12                  the commissioned officer corps of the Ad-  
13                  ministration; and

14                  “(E) execute a certificate or take an oath re-  
15                  lating to morality and conduct in such form as  
16                  the Administrator prescribes.

17                  “(2) COMPLETION OF PROGRAM.—A member of  
18                  the program may be appointed as a regular officer in  
19                  the commissioned officer corps of the Administration  
20                  if the member meets all requirements for appointment  
21                  as such an officer.

22                  “(d) FINANCIAL ASSISTANCE FOR QUALIFIED MEM-  
23                  BERS.—

24                  “(1) EXPENSES OF COURSE OF INSTRUCTION.—



1           “(A) *IN GENERAL.*—*In the case of a member*  
2           *of the program who meets such qualifications as*  
3           *the Administrator establishes for purposes of this*  
4           *subsection, the Administrator may pay the ex-*  
5           *penditures of the member in connection with pursuit*  
6           *of a course of professional flight and piloting in-*  
7           *struction under the program, including tuition,*  
8           *fees, educational materials such as books, train-*  
9           *ing, certifications, travel, and laboratory ex-*  
10           *penditures.*

11           “(B) *ASSISTANCE AFTER FOURTH ACADEMIC*  
12           *YEAR.*—*In the case of a member of the program*  
13           *described in subparagraph (A) who is enrolled in*  
14           *a course described in that subparagraph that has*  
15           *been approved by the Administrator and requires*  
16           *more than four academic years for completion,*  
17           *including elective requirements of the program,*  
18           *assistance under this subsection may also be pro-*  
19           *vided during a fifth academic year or during a*  
20           *combination of a part of a fifth academic year*  
21           *and summer sessions.*

22           “(2) *ROOM AND BOARD.*—*In the case of a mem-*  
23           *ber eligible to receive assistance under paragraph (1),*  
24           *the Administrator may, in lieu of payment of all or*  
25           *part of such assistance, pay the room and board ex-*

1        *penses of the member, and other educational expenses,*  
2        *of the educational institution concerned.*

3            *“(3) FAILURE TO COMPLETE PROGRAM OR AC-*  
4        *CEPT COMMISSION.—A member of the program who*  
5        *receives assistance under this subsection and who does*  
6        *not complete the course of instruction, or who com-*  
7        *pletes the course but declines to accept a commission*  
8        *in the commissioned officer corps of the Administra-*  
9        *tion when offered, shall be subject to the repayment*  
10       *provisions of subsection (e).*

11          *“(e) REPAYMENT OF UNEARNED PORTION OF FINAN-*  
12       *CIAL ASSISTANCE WHEN CONDITIONS OF PAYMENT NOT*  
13       *MET.—*

14            *“(1) IN GENERAL.—A member of the program*  
15        *who receives or benefits from assistance under sub-*  
16        *section (d), and whose receipt of or benefit from such*  
17        *assistance is subject to the condition that the member*  
18        *fully satisfy the requirements of subsection (c), shall*  
19        *repay to the United States an amount equal to the as-*  
20        *sistance received or benefitted from if the member fails*  
21        *to fully satisfy such requirements and may not receive*  
22        *or benefit from any unpaid amounts of such assist-*  
23        *ance after the member fails to satisfy such require-*  
24        *ments, unless the Administrator determines that the*  
25        *imposition of the repayment requirement and the ter-*

1        *mination of payment of unpaid amounts of such as-*  
2        *sistance with regard to the member would be—*

3                *“(A) contrary to a personnel policy or man-*  
4                *agement objective;*

5                *“(B) against equity and good conscience; or*

6                *“(C) contrary to the best interests of the*  
7                *United States.*

8                *“(2) REGULATIONS.—The Administrator may es-*  
9                *tablish, by regulations, procedures for determining the*  
10               *amount of the repayment required under this sub-*  
11               *section and the circumstances under which an excep-*  
12               *tion to repayment may be granted. The Adminis-*  
13               *trator may specify in the regulations the conditions*  
14               *under which financial assistance to be paid to a*  
15               *member of the program will not be made if the mem-*  
16               *ber no longer satisfies the requirements in subsection*  
17               *(c) or qualifications in subsection (d) for such assist-*  
18               *ance.*

19               *“(3) OBLIGATION AS DEBT TO UNITED STATES.—*  
20               *An obligation to repay the United States under this*  
21               *subsection is, for all purposes, a debt owed to the*  
22               *United States.”.*

23               *(b) CLERICAL AMENDMENT.—The table of contents in*  
24               *section 1 of the Act entitled “An Act to reauthorize the Hy-*  
25               *drographic Services Improvement Act of 1998, and for other*

1 purposes” (Public Law 107–372), as amended by section  
 2 104(b), is further amended by inserting after the item relat-  
 3 ing to section 217 the following:

“Sec. 218. Aviation accession training programs.”.

4 **SEC. 106. RECRUITING MATERIALS.**

5 (a) *IN GENERAL.*—Subtitle A (33 U.S.C. 3001 et seq.),  
 6 as amended by section 105(a), is further amended by add-  
 7 ing at the end the following:

8 **“SEC. 219. USE OF RECRUITING MATERIALS FOR PUBLIC RE-**  
 9 **LATIONS.**

10 “The Secretary may use for public relations purposes  
 11 of the Department of Commerce any advertising materials  
 12 developed for use for recruitment and retention of personnel  
 13 for the commissioned officer corps of the Administration.  
 14 Any such use shall be under such conditions and subject  
 15 to such restrictions as the Secretary shall prescribe.”.

16 (b) *CLERICAL AMENDMENT.*—The table of contents in  
 17 section 1 of the Act entitled “An Act to reauthorize the Hy-  
 18 drographic Services Improvement Act of 1998, and for other  
 19 purposes” (Public Law 107–372), as amended by section  
 20 105(b), is further amended by inserting after the item relat-  
 21 ing to section 218 the following:

“Sec. 219. Use of recruiting materials for public relations.”.

1 **SEC. 107. TECHNICAL CORRECTION.**

2 *Section 101(21)(C) of title 38, United States Code, is*  
 3 *amended by inserting “in the commissioned officer corps”*  
 4 *before “of the National”.*

5 **TITLE II—PARITY AND**  
 6 **RECRUITMENT**

7 **SEC. 201. EDUCATION LOANS.**

8 *(a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et seq.)*  
 9 *is amended by adding at the end the following:*

10 **“SEC. 267. EDUCATION LOAN REPAYMENT PROGRAM.**

11 *“(a) AUTHORITY TO REPAY EDUCATION LOANS.—For*  
 12 *the purpose of maintaining adequate numbers of officers of*  
 13 *the commissioned officer corps of the Administration on ac-*  
 14 *tive duty who have skills required by the commissioned offi-*  
 15 *cer corps, the Secretary may repay, in the case of a person*  
 16 *described in subsection (b), a loan that—*

17 *“(1) was used by the person to finance edu-*  
 18 *cation; and*

19 *“(2) was obtained from a governmental entity,*  
 20 *private financial institution, educational institution,*  
 21 *or other authorized entity.*

22 *“(b) ELIGIBLE PERSONS.—To be eligible to obtain a*  
 23 *loan repayment under this section, a person must—*

24 *“(1) satisfy one of the requirements specified in*  
 25 *subsection (c);*

1           “(2) *be fully qualified for, or hold, an appoint-*  
 2           *ment as a commissioned officer in the commissioned*  
 3           *officer corps of the Administration; and*

4           “(3) *sign a written agreement to serve on active*  
 5           *duty, or, if on active duty, to remain on active duty*  
 6           *for a period in addition to any other incurred active*  
 7           *duty obligation.*

8           “(c) *ACADEMIC AND PROFESSIONAL REQUIRE-*  
 9           *MENTS.—One of the following academic requirements must*  
 10          *be satisfied for purposes of determining the eligibility of an*  
 11          *individual for a loan repayment under this section:*

12           “(1) *The person is fully qualified in a profession*  
 13           *that the Secretary has determined to be necessary to*  
 14           *meet identified skill shortages in the commissioned of-*  
 15           *ficer corps of the Administration.*

16           “(2) *The person is enrolled as a full-time student*  
 17           *in the final year of a course of study at an accredited*  
 18           *educational institution (as determined by the Sec-*  
 19           *retary of Education) leading to a degree in a profes-*  
 20           *sion that will meet identified skill shortages in the*  
 21           *commissioned officer corps of the Administration.*

22           “(d) *LOAN REPAYMENTS.—*

23           “(1) *IN GENERAL.—Subject to the limits estab-*  
 24           *lished under paragraph (2), a loan repayment under*  
 25           *this section may consist of the payment of the prin-*

1        *cipal, interest, and related expenses of a loan obtained*  
2        *by a person described in subsection (b).*

3            *“(2) LIMITATION ON AMOUNT.—For each year of*  
4        *obligated service that a person agrees to serve in an*  
5        *agreement described in subsection (b)(3), the Sec-*  
6        *retary may pay not more than the amount specified*  
7        *in section 2173(e)(2) of title 10, United States Code.*

8        *“(e) ACTIVE DUTY SERVICE OBLIGATION.—*

9            *“(1) IN GENERAL.—A person entering into an*  
10        *agreement described in subsection (b)(3) incurs an ac-*  
11        *tive duty service obligation.*

12            *“(2) LENGTH OF OBLIGATION DETERMINED*  
13        *UNDER REGULATIONS.—*

14            *“(A) IN GENERAL.—Except as provided in*  
15        *subparagraph (B), the length of the obligation*  
16        *under paragraph (1) shall be determined under*  
17        *regulations prescribed by the Secretary.*

18            *“(B) MINIMUM OBLIGATION.—The regula-*  
19        *tions prescribed under subparagraph (A) may*  
20        *not provide for a period of obligation of less than*  
21        *one year for each maximum annual amount, or*  
22        *portion thereof, paid on behalf of the person for*  
23        *qualified loans.*

24            *“(3) PERSONS ON ACTIVE DUTY BEFORE ENTER-*  
25        *ING INTO AGREEMENT.—The active duty service obli-*

1        *gation of persons on active duty before entering into*  
 2        *the agreement shall be served after the conclusion of*  
 3        *any other obligation incurred under the agreement.*

4                *“(4) CONCURRENT COMPLETION OF SERVICE OB-*  
 5        *LIGATIONS.—A service obligation under this section*  
 6        *may be completed concurrently with a service obliga-*  
 7        *tion under section 216.*

8                *“(f) EFFECT OF FAILURE TO COMPLETE OBLIGA-*  
 9        *TION.—*

10                *“(1) ALTERNATIVE OBLIGATIONS.—An officer*  
 11        *who is relieved of the officer’s active duty obligation*  
 12        *under this section before the completion of that obliga-*  
 13        *tion may be given any alternative obligation, at the*  
 14        *discretion of the Secretary.*

15                *“(2) REPAYMENT.—An officer who does not com-*  
 16        *plete the period of active duty specified in the agree-*  
 17        *ment entered into under subsection (b)(3), or the al-*  
 18        *ternative obligation imposed under paragraph (1),*  
 19        *shall be subject to the repayment provisions under sec-*  
 20        *tion 216.*

21                *“(g) RULEMAKING.—The Secretary shall prescribe reg-*  
 22        *ulations to carry out this section, including—*

23                *“(1) standards for qualified loans and authorized*  
 24        *payees; and*



1           “(2) other terms and conditions for the making  
2           of loan repayments.”.

3           (b) *CLERICAL AMENDMENT.*—*The table of contents in*  
4 *section 1 of the Act entitled “An Act to reauthorize the Hy-*  
5 *drographic Services Improvement Act of 1998, and for other*  
6 *purposes” (Public Law 107–372) is amended by inserting*  
7 *after the item relating to section 266 the following:*

          “*Sec. 267. Education loan repayment program.*”.

8   **SEC. 202. INTEREST PAYMENTS.**

9           (a) *IN GENERAL.*—*Subtitle E (33 U.S.C. 3071 et seq.),*  
10 *as amended by section 201(a), is further amended by add-*  
11 *ing at the end the following:*

12   **“SEC. 268. INTEREST PAYMENT PROGRAM.**

13           “(a) *AUTHORITY.*—*The Secretary may pay the interest*  
14 *and any special allowances that accrue on one or more stu-*  
15 *dent loans of an eligible officer, in accordance with this sec-*  
16 *tion.*

17           “(b) *ELIGIBLE OFFICERS.*—*An officer is eligible for*  
18 *the benefit described in subsection (a) while the officer—*

19                   “(1) *is serving on active duty;*

20                   “(2) *has not completed more than three years of*  
21 *service on active duty;*

22                   “(3) *is the debtor on one or more unpaid loans*  
23 *described in subsection (c); and*

24                   “(4) *is not in default on any such loan.*

1       “(c) *STUDENT LOANS.*—*The authority to make pay-*  
2 *ments under subsection (a) may be exercised with respect*  
3 *to the following loans:*

4               “(1) *A loan made, insured, or guaranteed under*  
5 *part B of title IV of the Higher Education Act of*  
6 *1965 (20 U.S.C. 1071 et seq.).*

7               “(2) *A loan made under part D of such title (20*  
8 *U.S.C. 1087a et seq.).*

9               “(3) *A loan made under part E of such title (20*  
10 *U.S.C. 1087aa et seq.).*

11       “(d) *MAXIMUM BENEFIT.*—*Interest and any special*  
12 *allowance may be paid on behalf of an officer under this*  
13 *section for any of the 36 consecutive months during which*  
14 *the officer is eligible under subsection (b).*

15       “(e) *FUNDS FOR PAYMENTS.*—*The Secretary may use*  
16 *amounts appropriated for the pay and allowances of per-*  
17 *sonnel of the commissioned officer corps of the Administra-*  
18 *tion for payments under this section.*

19       “(f) *COORDINATION WITH SECRETARY OF EDU-*  
20 *CATION.*—

21               “(1) *IN GENERAL.*—*The Secretary shall consult*  
22 *with the Secretary of Education regarding the admin-*  
23 *istration of this section.*

1           “(2) *TRANSFER OF FUNDS.*—*The Secretary shall*  
 2           *transfer to the Secretary of Education the funds nec-*  
 3           *essary—*

4                     “(A) *to pay interest and special allowances*  
 5                     *on student loans under this section (in accord-*  
 6                     *ance with sections 428(o), 455(l), and 464(j) of*  
 7                     *the Higher Education Act of 1965 (20 U.S.C.*  
 8                     *1078(o), 1087e(l), and 1087dd(j)); and*

9                     “(B) *to reimburse the Secretary of Edu-*  
 10                    *cation for any reasonable administrative costs*  
 11                    *incurred by the Secretary in coordinating the*  
 12                    *program under this section with the administra-*  
 13                    *tion of the student loan programs under parts B,*  
 14                    *D, and E of title IV of the Higher Education Act*  
 15                    *of 1965 (20 U.S.C. 1071 et seq., 1087a et seq.,*  
 16                    *1087aa et seq.).*

17           “(g) *SPECIAL ALLOWANCE DEFINED.*—*In this section,*  
 18           *the term ‘special allowance’ means a special allowance that*  
 19           *is payable under section 438 of the Higher Education Act*  
 20           *of 1965 (20 U.S.C. 1087–1).”.*

21           (b) *CONFORMING AMENDMENTS.*—

22                     (1) *Section 428(o) of the Higher Education Act*  
 23                     *of 1965 (20 U.S.C. 1078(o)) is amended—*

24                             (A) *by striking the subsection heading and*  
 25                             *inserting “ARMED FORCES AND NOAA COMMIS-*

1           *SIONED OFFICER CORPS STUDENT LOAN INTER-*  
2           *EST PAYMENT PROGRAMS*"; and

3           *(B) in paragraph (1)—*

4                     *(i) by inserting "or section 268 of the*  
5                     *National Oceanic and Atmospheric Admin-*  
6                     *istration Commissioned Officer Corps Act of*  
7                     *2002" after "Code,"; and*

8                     *(ii) by inserting "or an officer in the*  
9                     *commissioned officer corps of the National*  
10                    *Oceanic and Atmospheric Administration,*  
11                    *respectively," after "Armed Forces".*

12           *(2) Sections 455(l) and 464(j) of the Higher*  
13           *Education Act of 1965 (20 U.S.C. 1087e(l) and*  
14           *1087dd(j)) are each amended—*

15                     *(A) by striking the subsection heading and*  
16                     *inserting "ARMED FORCES AND NOAA COMMIS-*  
17                     *SIONED OFFICER CORPS STUDENT LOAN INTER-*  
18                     *EST PAYMENT PROGRAMS*"; and

19                     *(B) in paragraph (1)—*

20                     *(i) by inserting "or section 268 of the*  
21                     *National Oceanic and Atmospheric Admin-*  
22                     *istration Commissioned Officer Corps Act of*  
23                     *2002" after "Code,"; and*

24                     *(ii) by inserting "or an officer in the*  
25                     *commissioned officer corps of the National*

1                    *Oceanic and Atmospheric Administration,*  
 2                    *respectively” after “Armed Forces”.*

3            (c) *CLERICAL AMENDMENT.—The table of contents in*  
 4 *section 1 of the Act entitled “An Act to reauthorize the Hy-*  
 5 *drographic Services Improvement Act of 1998, and for other*  
 6 *purposes” (Public Law 107–372), as amended by section*  
 7 *201(b), is further amended by inserting after the item relat-*  
 8 *ing to section 267 the following:*

          “Sec. 268. *Interest payment program.*”.

9    **SEC. 203. STUDENT PRE-COMMISSIONING PROGRAM.**

10            (a) *IN GENERAL.—Subtitle E (33 U.S.C. 3071 et seq.),*  
 11 *as amended by section 202(a), is further amended by add-*  
 12 *ing at the end the following:*

13    **“SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION AS-**  
 14                    **SISTANCE PROGRAM.**

15            “(a) *AUTHORITY TO PROVIDE FINANCIAL ASSIST-*  
 16 *ANCE.—For the purpose of maintaining adequate numbers*  
 17 *of officers of the commissioned officer corps of the Adminis-*  
 18 *tration on active duty, the Secretary may provide financial*  
 19 *assistance to a person described in subsection (b) for ex-*  
 20 *penses of the person while the person is pursuing on a full-*  
 21 *time basis at an accredited educational institution (as de-*  
 22 *termined by the Secretary of Education) a program of edu-*  
 23 *cation approved by the Secretary that leads to—*

24                    “(1) *a baccalaureate degree in not more than five*  
 25                    *academic years; or*

1           “(2) *a postbaccalaureate degree.*

2           “(b) *ELIGIBLE PERSONS.—*

3           “(1) *IN GENERAL.—A person is eligible to obtain*  
4 *financial assistance under subsection (a) if the per-*  
5 *son—*

6           “(A) *is enrolled on a full-time basis in a*  
7 *program of education referred to in subsection*  
8 *(a) at any educational institution described in*  
9 *such subsection;*

10           “(B) *meets all of the requirements for ac-*  
11 *ceptance into the commissioned officer corps of*  
12 *the Administration except for the completion of*  
13 *a baccalaureate degree; and*

14           “(C) *enters into a written agreement with*  
15 *the Secretary described in paragraph (2).*

16           “(2) *AGREEMENT.—A written agreement referred*  
17 *to in paragraph (1)(C) is an agreement between the*  
18 *person and the Secretary in which the person—*

19           “(A) *agrees to accept an appointment as an*  
20 *officer, if tendered; and*

21           “(B) *upon completion of the person’s edu-*  
22 *cational program, agrees to serve on active duty,*  
23 *immediately after appointment, for—*

1                   “(i) up to three years if the person re-  
2                   ceived less than three years of assistance;  
3                   and

4                   “(ii) up to five years if the person re-  
5                   ceived at least three years of assistance.

6           “(c) *QUALIFYING EXPENSES.*—*Expenses for which fi-*  
7 *nancial assistance may be provided under subsection (a)*  
8 *are the following:*

9                   “(1) *Tuition and fees charged by the educational*  
10 *institution involved.*

11                   “(2) *The cost of educational materials.*

12                   “(3) *In the case of a program of education lead-*  
13 *ing to a baccalaureate degree, laboratory expenses.*

14                   “(4) *Such other expenses as the Secretary con-*  
15 *siders appropriate.*

16           “(d) *LIMITATION ON AMOUNT.*—*The Secretary shall*  
17 *prescribe the amount of financial assistance provided to a*  
18 *person under subsection (a), which may not exceed the*  
19 *amount specified in section 2173(e)(2) of title 10, United*  
20 *States Code, for each year of obligated service that a person*  
21 *agrees to serve in an agreement described in subsection*  
22 *(b)(2).*

23           “(e) *DURATION OF ASSISTANCE.*—*Financial assist-*  
24 *ance may be provided to a person under subsection (a) for*  
25 *not more than five consecutive academic years.*

1       “(f) *SUBSISTENCE ALLOWANCE.*—

2               “(1) *IN GENERAL.*—*A person who receives finan-*  
3       *cial assistance under subsection (a) shall be entitled*  
4       *to a monthly subsistence allowance at a rate pre-*  
5       *scribed under paragraph (2) for the duration of the*  
6       *period for which the person receives such financial as-*  
7       *sistance.*

8               “(2) *DETERMINATION OF AMOUNT.*—*The Sec-*  
9       *retary shall prescribe monthly rates for subsistence al-*  
10       *lowance provided under paragraph (1), which shall be*  
11       *equal to the amount specified in section 2144(a) of*  
12       *title 10, United States Code.*

13       “(g) *INITIAL CLOTHING ALLOWANCE.*—

14               “(1) *TRAINING.*—*The Secretary may prescribe a*  
15       *sum which shall be credited to each person who re-*  
16       *ceives financial assistance under subsection (a) to*  
17       *cover the cost of the person’s initial clothing and*  
18       *equipment issue.*

19               “(2) *APPOINTMENT.*—*Upon completion of the*  
20       *program of education for which a person receives fi-*  
21       *nancial assistance under subsection (a) and accept-*  
22       *ance of appointment in the commissioned officer corps*  
23       *of the Administration, the person may be issued a*  
24       *subsequent clothing allowance equivalent to that nor-*  
25       *mally provided to a newly appointed officer.*



1       “(h) *TERMINATION OF FINANCIAL ASSISTANCE.*—

2               “(1) *IN GENERAL.*—*The Secretary shall termi-*  
3       *nate the assistance provided to a person under this*  
4       *section if—*

5                       “(A) *the Secretary accepts a request by the*  
6               *person to be released from an agreement de-*  
7               *scribed in subsection (b)(2);*

8                       “(B) *the misconduct of the person results in*  
9               *a failure to complete the period of active duty re-*  
10              *quired under the agreement; or*

11                      “(C) *the person fails to fulfill any term or*  
12              *condition of the agreement.*

13               “(2) *REIMBURSEMENT.*—*The Secretary may re-*  
14       *quire a person who receives assistance described in*  
15       *subsection (c), (f), or (g) under an agreement entered*  
16       *into under subsection (b)(1)(C) to reimburse the Sec-*  
17       *retary in an amount that bears the same ratio to the*  
18       *total costs of the assistance provided to that person as*  
19       *the unserved portion of active duty bears to the total*  
20       *period of active duty the officer agreed to serve under*  
21       *the agreement.*

22               “(3) *WAIVER.*—*The Secretary may waive the*  
23       *service obligation of a person through an agreement*  
24       *entered into under subsection (b)(1)(C) if the per-*  
25       *son—*

1           “(A) becomes unqualified to serve on active  
2           duty in the commissioned officer corps of the Ad-  
3           ministration because of a circumstance not with-  
4           in the control of that person; or

5           “(B) is—

6           “(i) not physically qualified for ap-  
7           pointment; and

8           “(ii) determined to be unqualified for  
9           service in the commissioned officer corps of  
10          the Administration because of a physical or  
11          medical condition that was not the result of  
12          the person’s own misconduct or grossly neg-  
13          ligent conduct.

14          “(4) OBLIGATION AS DEBT TO UNITED STATES.—  
15          An obligation to reimburse the Secretary imposed  
16          under paragraph (2) is, for all purposes, a debt owed  
17          to the United States.

18          “(5) DISCHARGE IN BANKRUPTCY.—A discharge  
19          in bankruptcy under title 11, United States Code,  
20          that is entered less than five years after the termi-  
21          nation of a written agreement entered into under sub-  
22          section (b)(1)(C) does not discharge the person signing  
23          the agreement from a debt arising under such agree-  
24          ment or under paragraph (2).

1       “(i) *REGULATIONS.*—*The Secretary may prescribe*  
 2 *such regulations and orders as the Secretary considers ap-*  
 3 *propriate to carry out this section.*

4       “(j) *CONCURRENT COMPLETION OF SERVICE OBLIGA-*  
 5 *TIONS.*—*A service obligation under this section may be com-*  
 6 *pleted concurrently with a service obligation under section*  
 7 *216.”.*

8       “(b) *CLERICAL AMENDMENT.*—*The table of contents in*  
 9 *section 1 of the Act entitled “An Act to reauthorize the Hy-*  
 10 *drographic Services Improvement Act of 1998, and for other*  
 11 *purposes” (Public Law 107–372), as amended by section*  
 12 *202(c), is further amended by inserting after the item relat-*  
 13 *ing to section 268 the following:*

      “*Sec. 269. Student pre-commissioning education assistance program.*”.

14 **SEC. 204. LIMITATION ON EDUCATIONAL ASSISTANCE.**

15       “(a) *IN GENERAL.*—*Each fiscal year, beginning with*  
 16 *the fiscal year in which this Act is enacted, the Secretary*  
 17 *of Commerce shall ensure that the total amount expended*  
 18 *by the Secretary under section 267 of the National Oceanic*  
 19 *and Atmospheric Administration Commissioned Officer*  
 20 *Corps Act of 2002 (as added by section 201(a)), section 268*  
 21 *of such Act (as added by section 202(a)), and section 269*  
 22 *of such Act (as added by section 203(a)) does not exceed*  
 23 *the amount by which—*

24               (1) *the total amount the Secretary would pay in*  
 25       *that fiscal year to officer candidates under section*

1       203(f)(1) of title 37, United States Code (as added by  
 2       section 305(d)), if such section entitled officer can-  
 3       didates to pay at monthly rates equal to the basic pay  
 4       of a commissioned officer in the pay grade O–1 with  
 5       less than 2 years of service, exceeds

6               (2) the total amount the Secretary actually pays  
 7       in that fiscal year to officer candidates under section  
 8       203(f)(1) of such title (as so added).

9       (b) *OFFICER CANDIDATE DEFINED.*—In this section,  
 10      the term “officer candidate” has the meaning given the term  
 11      in paragraph (4) of section 212(b) of the National Oceanic  
 12      and Atmospheric Administration Commissioned Officer  
 13      Corps Act of 2002 (33 U.S.C. 3002), as added by section  
 14      305(c).

15      **SEC. 205. APPLICABILITY OF CERTAIN PROVISIONS OF**  
 16                                      **TITLE 10, UNITED STATES CODE, AND EXTEN-**  
 17                                      **SION OF CERTAIN AUTHORITIES APPLICABLE**  
 18                                      **TO MEMBERS OF THE ARMED FORCES TO**  
 19                                      **COMMISSIONED OFFICER CORPS.**

20       (a) *APPLICABILITY OF CERTAIN PROVISIONS OF TITLE*  
 21      10.—Section 261(a) (33 U.S.C. 3071(a)) is amended—

22               (1) by redesignating paragraphs (13) through  
 23       (16) as paragraphs (22) through (25), respectively;

24               (2) by redesignating paragraphs (7) through (12)  
 25       as paragraphs (14) through (19), respectively;

1           (3) by redesignating paragraphs (4) through (6)  
2 as paragraphs (8) through (10), respectively;

3           (4) by inserting after paragraph (3) the fol-  
4 lowing:

5           “(4) Section 771, relating to unauthorized wear-  
6 ing of uniforms.

7           “(5) Section 774, relating to wearing religious  
8 apparel while in uniform.

9           “(6) Section 982, relating to service on State  
10 and local juries.

11           “(7) Section 1031, relating to administration of  
12 oaths.”;

13           (5) by inserting after paragraph (10), as redesign-  
14 nated, the following:

15           “(11) Section 1074n, relating to annual mental  
16 health assessments.

17           “(12) Section 1090a, relating to referrals for  
18 mental health evaluations.

19           “(13) Chapter 58, relating to the Benefits and  
20 Services for members being separated or recently sep-  
21 arated.”; and

22           (6) by inserting after paragraph (19), as redesign-  
23 nated, the following:

24           “(20) Subchapter I of chapter 88, relating to  
25 Military Family Programs.

1           “(21) Section 2005, relating to advanced edu-  
 2           cation assistance, active duty agreements, and reim-  
 3           bursement requirements.”.

4           **(b) EXTENSION OF CERTAIN AUTHORITIES.—**

5           **(1) NOTARIAL SERVICES.—**Section 1044a of title  
 6           10, United States Code, is amended—

7                   (A) in subsection (a)(1), by striking “armed  
 8                   forces” and inserting “uniformed services”; and

9                   (B) in subsection (b)(4), by striking “armed  
 10                  forces” both places it appears and inserting  
 11                  “uniformed services”.

12           **(2) ACCEPTANCE OF VOLUNTARY SERVICES FOR**  
 13           **PROGRAMS SERVING MEMBERS AND THEIR FAMI-**  
 14           **LIES.—**Section 1588 of such title is amended—

15                   (A) in subsection (a)(3), in the matter be-  
 16                   fore subparagraph (A), by striking “armed  
 17                   forces” and inserting “uniformed services”; and

18                   (B) by adding at the end the following new  
 19                   subsection:

20           **“(g) SECRETARY CONCERNED FOR ACCEPTANCE OF**  
 21           **SERVICES FOR PROGRAMS SERVING MEMBERS OF NOAA**  
 22           **CORPS AND THEIR FAMILIES.—**For purposes of the accept-  
 23           ance of services described in subsection (a)(3), the term ‘Sec-  
 24           retary concerned’ in subsection (a) shall include the Sec-  
 25           retary of Commerce with respect to members of the commis-

1 *sioned officer corps of the National Oceanic and Atmos-*  
 2 *pheric Administration.”.*

3 (3) *CAPSTONE COURSE FOR NEWLY SELECTED*  
 4 *FLAG OFFICERS.—Section 2153 of such title is*  
 5 *amended—*

6 (A) *in subsection (a)—*

7 (i) *by inserting “or the commissioned*  
 8 *officer corps of the National Oceanic and*  
 9 *Atmospheric Administration” after “in the*  
 10 *case of the Navy”; and*

11 (ii) *by striking “other armed forces”*  
 12 *and inserting “other uniformed services”;*  
 13 *and*

14 (B) *in subsection (b)(1), in the matter be-*  
 15 *fore subparagraph (A), by inserting “or the Sec-*  
 16 *retary of Commerce, as applicable,” after “the*  
 17 *Secretary of Defense”.*

18 **SEC. 206. APPLICABILITY OF CERTAIN PROVISIONS OF**  
 19 **TITLE 37, UNITED STATES CODE.**

20 (a) *IN GENERAL.—Subtitle E (33 U.S.C. 3071 et seq.)*  
 21 *is amended by inserting after section 261 the following:*

22 **“SEC. 261A. APPLICABILITY OF CERTAIN PROVISIONS OF**  
 23 **TITLE 37, UNITED STATES CODE.**

24 **“(a) PROVISIONS MADE APPLICABLE TO COMMIS-**  
 25 **SIONED OFFICER CORPS.—The provisions of law applicable**

1 *to the Armed Forces under the following provisions of title*  
2 *37, United States Code, shall apply to the commissioned*  
3 *officer corps of the Administration:*

4           “(1) Section 324, relating to accession bonuses  
5           for new officers in critical skills.

6           “(2) Section 403(f)(3), relating to prescribing  
7           regulations defining the terms ‘field duty’ and ‘sea  
8           duty’.

9           “(3) Section 403(l), relating to temporary con-  
10          tinuation of housing allowance for dependents of  
11          members dying on active duty.

12          “(4) Section 415, relating to initial uniform al-  
13          lowances.

14          “(5) Section 488, relating to allowances for re-  
15          cruiting expenses.

16          “(6) Section 495, relating to allowances for fu-  
17          neral honors duty.

18          “(b) REFERENCES.—The authority vested by title 37,  
19          United States Code, in the ‘military departments’, ‘the Sec-  
20          retary concerned’, or ‘the Secretary of Defense’ with respect  
21          to the provisions of law referred to in subsection (a) shall  
22          be exercised, with respect to the commissioned officer corps  
23          of the Administration, by the Secretary of Commerce or the  
24          Secretary’s designee.”.



1       (b) *PERSONAL MONEY ALLOWANCE.*—Section  
 2 414(a)(2) of title 37, United States Code, is amended by  
 3 inserting “or the director of the commissioned officer corps  
 4 of the National Oceanic and Atmospheric Administration”  
 5 after “Health Service”.

6       (c) *CLERICAL AMENDMENT.*—The table of contents in  
 7 section 1 of the Act entitled “An Act to reauthorize the Hy-  
 8 drographic Services Improvement Act of 1998, and for other  
 9 purposes” (Public Law 107–372) is amended by inserting  
 10 after the item relating to section 261 the following:

“Sec. 261A. Applicability of certain provisions of title 37, United States Code.”.

11 **SEC. 207. PROHIBITION ON RETALIATORY PERSONNEL AC-**  
 12 **TIONS.**

13       (a) *IN GENERAL.*—Subsection (a) of section 261 (33  
 14 U.S.C. 3071), as amended by section 205(a), is further  
 15 amended—

16           (1) by redesignating paragraphs (8) through (25)  
 17 as paragraphs (9) through (26), respectively; and

18           (2) by inserting after paragraph (7) the fol-  
 19 lowing:

20           “(8) Section 1034, relating to protected commu-  
 21 nications and prohibition of retaliatory personnel ac-  
 22 tions.”.

23       (b) *CONFORMING AMENDMENT.*—Subsection (b) of such  
 24 section 261 is amended by adding at the end the following:  
 25 “For purposes of paragraph (8) of subsection (a), the term

1 *‘Inspector General’ in section 1034 of such title 10 shall*  
 2 *mean the Inspector General of the Department of Com-*  
 3 *merce.’.*

4 *(c) REGULATIONS.—Such section is further amended*  
 5 *by adding at the end the following:*

6 *“(c) REGULATIONS REGARDING PROTECTED COMMU-*  
 7 *NICATIONS AND PROHIBITION OF RETALIATORY PER-*  
 8 *SONNEL ACTIONS.—The Secretary may prescribe regula-*  
 9 *tions to carry out the application of section 1034 of title*  
 10 *10, United States Code, to the commissioned officer corps*  
 11 *of the Administration, including by prescribing such ad-*  
 12 *ministrative procedures for investigation and appeal with-*  
 13 *in the commissioned officer corps as the Secretary considers*  
 14 *appropriate.’.*

15 **SEC. 208. APPLICATION OF CERTAIN PROVISIONS OF COM-**  
 16 **PETITIVE SERVICE LAW.**

17 *Section 3304(f) of title 5, United States Code, is*  
 18 *amended—*

19 *(1) in paragraph (1), by inserting “and mem-*  
 20 *bers of the commissioned officer corps of the National*  
 21 *Oceanic and Atmospheric Administration (or its*  
 22 *predecessor organization the Coast and Geodetic Sur-*  
 23 *vey) separated from such uniformed service” after*  
 24 *“separated from the armed forces”;*

1           (2) *in paragraph (2), by striking “or veteran”*  
 2           *and inserting “, veteran, or member”; and*

3           (3) *in paragraph (4), by inserting “and mem-*  
 4           *bers of the commissioned officer corps of the National*  
 5           *Oceanic and Atmospheric Administration (or its*  
 6           *predecessor organization the Coast and Geodetic Sur-*  
 7           *vey) separated from such uniformed service” after*  
 8           *“separated from the armed forces”.*

9   **SEC. 209. EMPLOYMENT AND REEMPLOYMENT RIGHTS.**

10          *Section 4303(16) of title 38, United States Code, is*  
 11          *amended by inserting “the commissioned officer corps of the*  
 12          *National Oceanic and Atmospheric Administration,” after*  
 13          *“Public Health Service,”.*

14   **SEC. 210. TREATMENT OF COMMISSION IN COMMISSIONED**  
 15                   **OFFICER CORPS FOR PURPOSES OF CERTAIN**  
 16                   **HIRING DECISIONS.**

17          *(a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et seq.),*  
 18          *as amended by this title, is further amended by adding at*  
 19          *the end the following:*

20   **“SEC. 269A. TREATMENT OF COMMISSION IN COMMIS-**  
 21                   **SIONED OFFICER CORPS AS EMPLOYMENT IN**  
 22                   **ADMINISTRATION FOR PURPOSES OF CER-**  
 23                   **TAIN HIRING DECISIONS.**

24          *“(a) IN GENERAL.—In any case in which the Sec-*  
 25          *retary accepts an application for a position of employment*

1 *with the Administration and limits consideration of appli-*  
 2 *cations for such position to applications submitted by indi-*  
 3 *viduals serving in a career or career-conditional position*  
 4 *in the competitive service within the Administration, the*  
 5 *Secretary shall deem an officer who has served as an officer*  
 6 *in the commissioned officer corps of the Administration for*  
 7 *at least three years to be serving in a career or career-condi-*  
 8 *tional position in the competitive service within the Admin-*  
 9 *istration for purposes of such limitation.*

10       “(b) *CAREER APPOINTMENTS.*—*If the Secretary selects*  
 11 *an application submitted by an officer described in sub-*  
 12 *section (a) for a position described in such subsection, the*  
 13 *Secretary shall give such officer a career or career-condi-*  
 14 *tional appointment in the competitive service, as appro-*  
 15 *priate.*

16       “(c) *COMPETITIVE SERVICE DEFINED.*—*In this sec-*  
 17 *tion, the term ‘competitive service’ has the meaning given*  
 18 *the term in section 2102 of title 5, United States Code.”.*

19       “(b) *CLERICAL AMENDMENT.*—*The table of contents in*  
 20 *section 1 of the Act entitled “An Act to reauthorize the Hy-*  
 21 *drographic Services Improvement Act of 1998, and for other*  
 22 *purposes” (Public Law 107–372) is amended by inserting*  
 23 *after the item relating to section 269, as added by section*  
 24 *203(b), the following new item:*

“Sec. 269A. *Treatment of commission in commissioned officer corps as employ-*  
*ment in Administration for purposes of certain hiring deci-*  
*sions.”.*

1 **TITLE III—APPOINTMENTS AND**  
 2 **PROMOTION OF OFFICERS**

3 **SEC. 301. APPOINTMENTS.**

4 (a) ORIGINAL APPOINTMENTS.—Section 221 (33  
 5 U.S.C. 3021) is amended to read as follows:

6 **“SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINT-**  
 7 **MENTS.**

8 “(a) ORIGINAL APPOINTMENTS.—

9 “(1) GRADES.—

10 “(A) IN GENERAL.—Except as provided in  
 11 subparagraph (B), an original appointment of  
 12 an officer may be made in such grades as may  
 13 be appropriate for—

14 “(i) the qualification, experience, and  
 15 length of service of the appointee; and

16 “(ii) the commissioned officer corps of  
 17 the Administration.

18 “(B) APPOINTMENT OF OFFICER CAN-  
 19 DIDATES.—

20 “(i) LIMITATION ON GRADE.—An origi-  
 21 nal appointment of an officer candidate,  
 22 upon graduation from the basic officer  
 23 training program of the commissioned offi-  
 24 cer corps of the Administration, may not be  
 25 made in any other grade than ensign.

1           “(i) *RANK.*—Officer candidates receiv-  
2           ing appointments as ensigns upon gradua-  
3           tion from the basic officer training program  
4           shall take rank according to their pro-  
5           ficiency as shown by the order of their merit  
6           at date of graduation.

7           “(2) *SOURCE OF APPOINTMENTS.*—An original  
8           appointment may be made from among the following:

9           “(A) Graduates of the basic officer training  
10          program of the commissioned officer corps of the  
11          Administration.

12          “(B) Graduates of the military service  
13          academies of the United States who otherwise  
14          meet the academic standards for enrollment in  
15          the training program described in subparagraph  
16          (A).

17          “(C) Graduates of the maritime academies  
18          of the States who—

19                 “(i) otherwise meet the academic  
20                 standards for enrollment in the training  
21                 program described in subparagraph (A);

22                 “(ii) completed at least three years of  
23                 regimented training while at a maritime  
24                 academy of a State; and

1                   “(iii) obtained an unlimited tonnage  
2                   or unlimited horsepower Merchant Mariner  
3                   Credential from the United States Coast  
4                   Guard.

5                   “(D) Licensed officers of the United States  
6                   merchant marine who have served two or more  
7                   years aboard a vessel of the United States in the  
8                   capacity of a licensed officer, who otherwise meet  
9                   the academic standards for enrollment in the  
10                  training program described in subparagraph  
11                  (A).

12                  “(3) DEFINITIONS.—In this subsection:

13                  “(A) MARITIME ACADEMIES OF THE  
14                  STATES.—The term ‘maritime academies of the  
15                  States’ means the following:

16                         “(i) California Maritime Academy,  
17                         Vallejo, California.

18                         “(ii) Great Lakes Maritime Academy,  
19                         Traverse City, Michigan.

20                         “(iii) Maine Maritime Academy,  
21                         Castine, Maine.

22                         “(iv) Massachusetts Maritime Acad-  
23                         emy, Buzzards Bay, Massachusetts.

24                         “(v) State University of New York  
25                         Maritime College, Fort Schuyler, New York.

1                   “(vi) *Texas A&M Maritime Academy,*  
2                   *Galveston, Texas.*

3                   “(B) *MILITARY SERVICE ACADEMIES OF*  
4                   *THE UNITED STATES.—The term ‘military serv-*  
5                   *ice academies of the United States’ means the*  
6                   *following:*

7                   “(i) *The United States Military Acad-*  
8                   *emy, West Point, New York.*

9                   “(ii) *The United States Naval Acad-*  
10                  *emy, Annapolis, Maryland.*

11                  “(iii) *The United States Air Force*  
12                  *Academy, Colorado Springs, Colorado.*

13                  “(iv) *The United States Coast Guard*  
14                  *Academy, New London, Connecticut.*

15                  “(v) *The United States Merchant Ma-*  
16                  *rine Academy, Kings Point, New York.*

17                  “(b) *REAPPOINTMENT.—*

18                  “(1) *IN GENERAL.—Except as provided in para-*  
19                  *graph (2), an individual who previously served in the*  
20                  *commissioned officer corps of the Administration may*  
21                  *be appointed by the Secretary to the grade the indi-*  
22                  *vidual held prior to separation.*

23                  “(2) *REAPPOINTMENTS TO HIGHER GRADES.—*  
24                  *An appointment under paragraph (1) to a position of*



1        *importance and responsibility designated under sec-*  
2        *tion 228 may only be made by the President.*

3        “(c) *QUALIFICATIONS.—An appointment under sub-*  
4        *section (a) or (b) may not be given to an individual until*  
5        *the individual’s mental, moral, physical, and professional*  
6        *fitness to perform the duties of an officer has been estab-*  
7        *lished under such regulations as the Secretary shall pre-*  
8        *scribe.*

9        “(d) *ORDER OF PRECEDENCE.—Appointees under this*  
10       *section shall take precedence in the grade to which ap-*  
11       *pointed in accordance with the dates of their commissions*  
12       *as commissioned officers in such grade. The order of prece-*  
13       *dence of appointees whose dates of commission are the same*  
14       *shall be determined by the Secretary.*

15       “(e) *INTER-SERVICE TRANSFERS.—For inter-service*  
16       *transfers (as described in Department of Defense Directive*  
17       *1300.4 (dated December 27, 2006)) the Secretary shall—*

18                “(1) *coordinate with the Secretary of Defense*  
19                *and the Secretary of the Department in which the*  
20                *Coast Guard is operating to promote and streamline*  
21                *inter-service transfers;*

22                “(2) *give preference to such inter-service trans-*  
23                *fers for recruitment purposes as determined appro-*  
24                *priate by the Secretary; and*

1           “(3) *reappoint such inter-service transfers to the*  
 2           *equivalent grade in the commissioned officer corps of*  
 3           *the Administration.*”.

4           **(b) CLERICAL AMENDMENT.**—*The table of contents in*  
 5           *section 1 of the Act entitled “An Act to reauthorize the Hy-*  
 6           *drographic Services Improvement Act of 1998, and for other*  
 7           *purposes” (Public Law 107–372) is amended by striking*  
 8           *the item relating to section 221 and inserting the following:*  
           *“Sec. 221. Original appointments and reappointments.”.*

9           **SEC. 302. PERSONNEL BOARDS.**

10           *Section 222 (33 U.S.C. 3022) is amended to read as*  
 11           *follows:*

12           **“SEC. 222. PERSONNEL BOARDS.**

13           “(a) **CONVENING.**—*Not less frequently than once each*  
 14           *year and at such other times as the Secretary determines*  
 15           *necessary, the Secretary shall convene a personnel board.*

16           “(b) **MEMBERSHIP.**—

17           “(1) **IN GENERAL.**—*A board convened under sub-*  
 18           *section (a) shall consist of five or more officers who*  
 19           *are serving in or above the permanent grade of the of-*  
 20           *ficers under consideration by the board.*

21           “(2) **RETIRED OFFICERS.**—*Officers on the retired*  
 22           *list may be recalled to serve on such personnel boards*  
 23           *as the Secretary considers necessary.*

24           “(3) **NO MEMBERSHIP ON TWO SUCCESSIVE**  
 25           **BOARDS.**—*No officer may be a member of two succes-*

1       *sive personnel boards convened to consider officers of*  
2       *the same grade for promotion or separation.*

3       “(c) *DUTIES.—Each personnel board shall—*

4               “(1) *recommend to the Secretary such changes as*  
5       *may be necessary to correct any erroneous position on*  
6       *the lineal list that was caused by administrative*  
7       *error; and*

8               “(2) *make selections and recommendations to the*  
9       *Secretary and the President for the appointment, pro-*  
10       *motion, involuntary separation, continuation, and*  
11       *involuntary retirement of officers in the commissioned*  
12       *officer corps of the Administration as prescribed in*  
13       *this title.*

14       “(d) *ACTION ON RECOMMENDATIONS NOT ACCEPT-*  
15       *ABLE.—If any recommendation by a board convened under*  
16       *subsection (a) is not accepted by the Secretary or the Presi-*  
17       *dent, the board shall make such further recommendations*  
18       *as the Secretary or the President considers appropriate.*

19       “(e) *AUTHORITY FOR OFFICERS TO OPT OUT OF PRO-*  
20       *MOTION CONSIDERATION.—*

21               “(1) *IN GENERAL.—The Director of the National*  
22       *Oceanic and Atmospheric Administration Commis-*  
23       *sioned Officer Corps may provide that an officer,*  
24       *upon the officer’s request and with the approval of the*  
25       *Director, be excluded from consideration for pro-*

1       *motion by a personnel board convened under this sec-*  
2       *tion.*

3               “(2) *APPROVAL.*—*The Director shall approve a*  
4       *request made by an officer under paragraph (1) only*  
5       *if—*

6                       “(A) *the basis for the request is to allow the*  
7       *officer to complete a broadening assignment, ad-*  
8       *vanced education, another assignment of signifi-*  
9       *cant value to the Administration, a career pro-*  
10       *gression requirement delayed by the assignment*  
11       *or education, or a qualifying personal or profes-*  
12       *sional circumstance, as determined by the Direc-*  
13       *tor;*

14                      “(B) *the Director determines the exclusion*  
15       *from consideration is in the best interest of the*  
16       *Administration; and*

17                      “(C) *the officer has not previously failed se-*  
18       *lection for promotion to the grade for which the*  
19       *officer requests the exclusion from consider-*  
20       *ation.”.*

21       **SEC. 303. POSITIONS OF IMPORTANCE AND RESPONSI-**  
22                       **BILITY.**

23       *Section 228 (33 U.S.C. 3028) is amended—*

24                      (1) *in subsection (c)—*

1           (A) *in the first sentence, by striking “The*  
2           *Secretary shall designate one position under this*  
3           *section” and inserting “The President shall des-*  
4           *ignate one position”; and*

5           (B) *in the second sentence, by striking*  
6           *“That position shall be filled by” and inserting*  
7           *“The President shall fill that position by ap-*  
8           *pointing, by and with the advice and consent of*  
9           *the Senate,”;*

10          (2) *in subsection (d)(2), by inserting “or imme-*  
11          *diately beginning a period of terminal leave” after*  
12          *“for which a higher grade is designated”;*

13          (3) *by amending subsection (e) to read as fol-*  
14          *lows:*

15          “(e) **LIMIT ON NUMBER OF OFFICERS APPOINTED.**—  
16          *The total number of officers serving on active duty at any*  
17          *one time in the grade of rear admiral (lower half) or above*  
18          *may not exceed five, with only one serving in the grade*  
19          *of vice admiral.”; and*

20          (4) *in subsection (f), by inserting “or in a period*  
21          *of annual leave used at the end of the appointment”*  
22          *after “serving in that grade”.*

23          **SEC. 304. TEMPORARY APPOINTMENTS.**

24          (a) *IN GENERAL.*—Section 229 (33 U.S.C. 3029) is  
25          *amended to read as follows:*

1 **“SEC. 229. TEMPORARY APPOINTMENTS.**

2       “(a) *APPOINTMENTS BY PRESIDENT.*—Temporary ap-  
3 *pointments in the grade of ensign, lieutenant junior grade,*  
4 *or lieutenant may be made by the President.*

5       “(b) *TERMINATION.*—A temporary appointment to a  
6 *position under subsection (a) shall terminate upon ap-*  
7 *proval of a permanent appointment for such position made*  
8 *by the President.*

9       “(c) *ORDER OF PRECEDENCE.*—Appointees under sub-  
10 *section (a) shall take precedence in the grade to which ap-*  
11 *pointed in accordance with the dates of their appointments*  
12 *as officers in such grade. The order of precedence of ap-*  
13 *pointees who are appointed on the same date shall be deter-*  
14 *mined by the Secretary.*

15       “(d) *ANY ONE GRADE.*—When determined by the Sec-  
16 *retary to be in the best interest of the commissioned officer*  
17 *corps of the Administration, officers in any permanent*  
18 *grade may be temporarily promoted one grade by the Presi-*  
19 *dent. Any such temporary promotion terminates upon the*  
20 *transfer of the officer to a new assignment.”.*

21       “(b) *CLERICAL AMENDMENT.*—The table of contents in  
22 *section 1 of the Act entitled “An Act to reauthorize the Hy-*  
23 *drographic Services Improvement Act of 1998, and for other*  
24 *purposes” (Public Law 107–372) is amended by striking*  
25 *the item relating to section 229 and inserting the following:*

“Sec. 229. Temporary appointments.”.

1 **SEC. 305. OFFICER CANDIDATES.**

2       (a) *IN GENERAL.*—*Subtitle B (33 U.S.C. 3021 et seq.)*  
3 *is amended by adding at the end the following:*

4 **“SEC. 234. OFFICER CANDIDATES.**

5       “(a) *DETERMINATION OF NUMBER.*—*The Secretary*  
6 *shall determine the number of appointments of officer can-*  
7 *didates.*

8       “(b) *APPOINTMENT.*—*Appointment of officer can-*  
9 *didates shall be made under regulations, which the Sec-*  
10 *retary shall prescribe, including regulations with respect to*  
11 *determining age limits, methods of selection of officer can-*  
12 *didates, term of service as an officer candidate before grad-*  
13 *uation from the basic officer training program of the Ad-*  
14 *ministration, and all other matters affecting such appoint-*  
15 *ment.*

16       “(c) *DISMISSAL.*—*The Secretary may dismiss from the*  
17 *basic officer training program of the Administration any*  
18 *officer candidate who, during the officer candidate’s term*  
19 *as an officer candidate, the Secretary considers unsatisfac-*  
20 *tory in either academics or conduct, or not adapted for a*  
21 *career in the commissioned officer corps of the Administra-*  
22 *tion. Officer candidates shall be subject to rules governing*  
23 *discipline prescribed by the Director of the National Oce-*  
24 *anic and Atmospheric Administration Commissioned Offi-*  
25 *cer Corps.*

26       “(d) *AGREEMENT.*—

1           “(1) *IN GENERAL.*—*Each officer candidate shall*  
2           *sign an agreement with the Secretary in accordance*  
3           *with section 216(a)(2) regarding the officer can-*  
4           *didate’s term of service in the commissioned officer*  
5           *corps of the Administration.*

6           “(2) *ELEMENTS.*—*An agreement signed by an of-*  
7           *ficer candidate under paragraph (1) shall provide*  
8           *that the officer candidate agrees to the following:*

9                   “(A) *That the officer candidate will com-*  
10                  *plete the course of instruction at the basic officer*  
11                  *training program of the Administration.*

12                  “(B) *That upon graduation from such pro-*  
13                  *gram, the officer candidate—*

14                          “(i) *will accept an appointment, if*  
15                          *tendered, as an officer; and*

16                          “(ii) *will serve on active duty for at*  
17                          *least four years immediately after such ap-*  
18                          *pointment.*

19           “(e) *REGULATIONS.*—*The Secretary shall prescribe*  
20           *regulations to carry out this section. Such regulations shall*  
21           *include—*

22                          “(1) *standards for determining what constitutes*  
23                          *a breach of an agreement signed under subsection*  
24                          *(d)(1); and*



1           “(2) procedures for determining whether such a  
2           breach has occurred.

3           “(f) *REPAYMENT*.—An officer candidate or former offi-  
4           cer candidate who does not fulfill the terms of the obligation  
5           to serve as specified under subsection (d) shall be subject  
6           to the repayment provisions of section 216(b).”.

7           (b) *CLERICAL AMENDMENT*.—The table of contents in  
8           section 1 of the Act entitled “An Act to reauthorize the Hy-  
9           drographic Services Improvement Act of 1998, and for other  
10          purposes” (Public Law 107–372) is amended by inserting  
11          after the item relating to section 233 the following:

          “Sec. 234. Officer candidates.”.

12          (c) *OFFICER CANDIDATE DEFINED*.—Section 212(b)  
13          (33 U.S.C. 3002(b)) is amended—

14                 (1) by redesignating paragraphs (4) through (6)  
15                 as paragraphs (5) through (7), respectively; and

16                 (2) by inserting after paragraph (3) the fol-  
17                 lowing:

18                         “(4) *OFFICER CANDIDATE*.—The term ‘officer  
19                         candidate’ means an individual who is enrolled in the  
20                         basic officer training program of the Administration  
21                         and is under consideration for appointment as an of-  
22                         ficer under section 221(a)(2)(A).”.

23          (d) *PAY FOR OFFICER CANDIDATES*.—Section 203 of  
24          title 37, United States Code, is amended by adding at the  
25          end the following:

1       “(f)(1) *An officer candidate enrolled in the basic officer*  
2 *training program of the commissioned officer corps of the*  
3 *National Oceanic and Atmospheric Administration is enti-*  
4 *tled, while participating in such program, to monthly offi-*  
5 *cer candidate pay at monthly rates equal to the basic pay*  
6 *of an enlisted member in the pay grade E-5 with less than*  
7 *two years of service.*

8       “(2) *An individual who graduates from such program*  
9 *shall receive credit for the time spent participating in such*  
10 *program as if such time were time served while on active*  
11 *duty as a commissioned officer. If the individual does not*  
12 *graduate from such program, such time shall not be consid-*  
13 *ered creditable for active duty or pay.”.*

14 **SEC. 306. PROCUREMENT OF PERSONNEL.**

15       (a) *IN GENERAL.*—*Subtitle B (33 U.S.C. 3021 et seq.),*  
16 *as amended by section 305(a), is further amended by add-*  
17 *ing at the end the following:*

18 **“SEC. 235. PROCUREMENT OF PERSONNEL.**

19       *“The Secretary may make such expenditures as the*  
20 *Secretary considers necessary in order to obtain recruits for*  
21 *the commissioned officer corps of the Administration, in-*  
22 *cluding advertising.”.*

23       (b) *CLERICAL AMENDMENT.*—*The table of contents in*  
24 *section 1 of the Act entitled “An Act to reauthorize the Hy-*  
25 *drographic Services Improvement Act of 1998, and for other*

1 purposes” (Public Law 107–372), as amended by section  
 2 305(b), is further amended by inserting after the item relat-  
 3 ing to section 234 the following:

“Sec. 235. Procurement of personnel.”.

4 **SEC. 307. CAREER INTERMISSION PROGRAM.**

5 (a) *IN GENERAL.*—Subtitle B (33 U.S.C. 3021 et seq.),  
 6 as amended by section 306(a), is further amended by add-  
 7 ing at the end the following:

8 **“SEC. 236. CAREER FLEXIBILITY TO ENHANCE RETENTION**  
 9 **OF OFFICERS.**

10 “(a) *PROGRAMS AUTHORIZED.*—The Secretary may  
 11 carry out a program under which officers may be inac-  
 12 tivated from active duty in order to meet personal or profes-  
 13 sional needs and returned to active duty at the end of such  
 14 period of inactivation from active duty.

15 “(b) *PERIOD OF INACTIVATION FROM ACTIVE DUTY;*  
 16 *EFFECT OF INACTIVATION.*—

17 “(1) *IN GENERAL.*—The period of inactivation  
 18 from active duty under a program under this section  
 19 of an officer participating in the program shall be  
 20 such period as the Secretary shall specify in the  
 21 agreement of the officer under subsection (c), except  
 22 that such period may not exceed three years.

23 “(2) *EXCLUSION FROM RETIREMENT.*—Any pe-  
 24 riod of participation of an officer in a program under  
 25 this section shall not count toward eligibility for re-

1        *tirement or computation of retired pay under subtitle*  
2        *C.*

3        “(c) *AGREEMENT.—Each officer who participates in*  
4        *a program under this section shall enter into a written*  
5        *agreement with the Secretary under which that officer shall*  
6        *agree as follows:*

7                “(1) *To undergo during the period of the inac-*  
8        *tivation of the officer from active duty under the pro-*  
9        *gram such inactive duty training as the Director of*  
10        *the National Oceanic and Atmospheric Administra-*  
11        *tion Commissioned Officer Corps shall require in*  
12        *order to ensure that the officer retains proficiency, at*  
13        *a level determined by the Director to be sufficient, in*  
14        *the technical skills, professional qualifications, and*  
15        *physical readiness of the officer during the inactiva-*  
16        *tion of the officer from active duty.*

17                “(2) *Following completion of the period of the*  
18        *inactivation of the officer from active duty under the*  
19        *program, to serve two months on active duty for each*  
20        *month of the period of the inactivation of the officer*  
21        *from active duty under the program.*

22        “(d) *CONDITIONS OF RELEASE.—The Secretary*  
23        *shall—*

24                “(1) *prescribe regulations specifying the guide-*  
25        *lines regarding the conditions of release that must be*

1       *considered and addressed in the agreement required*  
2       *by subsection (c); and*

3               “(2) *at a minimum, prescribe the procedures*  
4       *and standards to be used to instruct an officer on the*  
5       *obligations to be assumed by the officer under para-*  
6       *graph (1) of such subsection while the officer is re-*  
7       *leased from active duty.*

8               “(e) *ORDER TO ACTIVE DUTY.—Under regulations*  
9       *prescribed by the Secretary, an officer participating in a*  
10       *program under this section may, in the discretion of the*  
11       *Secretary, be required to terminate participation in the*  
12       *program and be ordered to active duty.*

13              “(f) *PAY AND ALLOWANCES.—*

14                   “(1) *BASIC PAY.—During each month of partici-*  
15       *pation in a program under this section, an officer*  
16       *who participates in the program shall be paid basic*  
17       *pay in an amount equal to two-thirtieths of the*  
18       *amount of monthly basic pay to which the officer*  
19       *would otherwise be entitled under section 204 of title*  
20       *37, United States Code, as a member of the uniformed*  
21       *services on active duty in the grade and years of serv-*  
22       *ice of the officer when the officer commences partici-*  
23       *pation in the program.*

24                   “(2) *SPECIAL OR INCENTIVE PAY OR BONUS.—*

1           “(A) *PROHIBITION.*—*An officer who par-*  
2           *ticipates in a program under this section shall*  
3           *not, while participating in the program, be paid*  
4           *any special or incentive pay or bonus to which*  
5           *the officer is otherwise entitled under an agree-*  
6           *ment under chapter 5 of title 37, United States*  
7           *Code, that is in force when the officer commences*  
8           *participation in the program.*

9           “(B) *NOT TREATED AS FAILURE TO PER-*  
10           *FORM SERVICES.*—*The inactivation from active*  
11           *duty of an officer participating in a program*  
12           *under this section shall not be treated as a fail-*  
13           *ure of the officer to perform any period of service*  
14           *required of the officer in connection with an*  
15           *agreement for a special or incentive pay or*  
16           *bonus under chapter 5 of title 37, United States*  
17           *Code, that is in force when the officer commences*  
18           *participation in the program.*

19           “(3) *RETURN TO ACTIVE DUTY.*—

20           “(A) *SPECIAL OR INCENTIVE PAY OR*  
21           *BONUS.*—*Subject to subparagraph (B), upon the*  
22           *return of an officer to active duty after comple-*  
23           *tion by the officer of participation in a program*  
24           *under this section—*

1           “(i) any agreement entered into by the  
2 officer under chapter 5 of title 37, United  
3 States Code, for the payment of a special or  
4 incentive pay or bonus that was in force  
5 when the officer commenced participation  
6 in the program shall be revived, with the  
7 term of such agreement after revival being  
8 the period of the agreement remaining to  
9 run when the officer commenced participa-  
10 tion in the program; and

11           “(ii) any special or incentive pay or  
12 bonus shall be payable to the officer in ac-  
13 cordance with the terms of the agreement  
14 concerned for the term specified in clause  
15 (i).

16           “(B) LIMITATION.—

17           “(i) IN GENERAL.—Subparagraph (A)  
18 shall not apply to any special or incentive  
19 pay or bonus otherwise covered by that sub-  
20 paragraph with respect to an officer if, at  
21 the time of the return of the officer to active  
22 duty as described in that subparagraph—

23           “(I) such pay or bonus is no  
24 longer authorized by law; or

1           “(II) *the officer does not satisfy*  
2           *eligibility criteria for such pay or*  
3           *bonus as in effect at the time of the re-*  
4           *turn of the officer to active duty.*

5           “(i) *PAY OR BONUS CEASES BEING*  
6           *AUTHORIZED.—Subparagraph (A) shall*  
7           *cease to apply to any special or incentive*  
8           *pay or bonus otherwise covered by that sub-*  
9           *paragraph with respect to an officer if, dur-*  
10          *ing the term of the revived agreement of the*  
11          *officer under subparagraph (A)(i), such pay*  
12          *or bonus ceases being authorized by law.*

13          “(C) *REPAYMENT.—An officer who is ineli-*  
14          *gible for payment of a special or incentive pay*  
15          *or bonus otherwise covered by this paragraph by*  
16          *reason of subparagraph (B)(i)(II) shall be subject*  
17          *to the requirements for repayment of such pay or*  
18          *bonus in accordance with the terms of the appli-*  
19          *cable agreement of the officer under chapter 5 of*  
20          *title 37, United States Code.*

21          “(D) *REQUIRED SERVICE IS ADDITIONAL.—*  
22          *Any service required of an officer under an*  
23          *agreement covered by this paragraph after the of-*  
24          *ficer returns to active duty as described in sub-*  
25          *paragraph (A) shall be in addition to any serv-*



1           *ice required of the officer under an agreement*  
2           *under subsection (c).*

3           “(4) *TRAVEL AND TRANSPORTATION ALLOW-*  
4           *ANCE.—*

5                   “(A) *IN GENERAL.—Subject to subpara-*  
6                   *graph (B), an officer who participates in a pro-*  
7                   *gram under this section is entitled, while par-*  
8                   *ticipating in the program, to the travel and*  
9                   *transportation allowances authorized by section*  
10                  *474 of title 37, United States Code, for—*

11                           “(i) *travel performed from the resi-*  
12                           *dence of the officer, at the time of release*  
13                           *from active duty to participate in the pro-*  
14                           *gram, to the location in the United States*  
15                           *designated by the officer as the officer’s resi-*  
16                           *dence during the period of participation in*  
17                           *the program; and*

18                           “(ii) *travel performed to the residence*  
19                           *of the officer upon return to active duty at*  
20                           *the end of the participation of the officer in*  
21                           *the program.*

22                           “(B) *SINGLE RESIDENCE.—An allowance is*  
23                           *payable under this paragraph only with respect*  
24                           *to travel of an officer to and from a single resi-*  
25                           *dence.*

1           “(5) *LEAVE BALANCE*.—*An officer who partici-*  
2           *pates in a program under this section is entitled to*  
3           *carry forward the leave balance existing as of the day*  
4           *on which the officer begins participation and accumu-*  
5           *lated in accordance with section 701 of title 10,*  
6           *United States Code, but not to exceed 60 days.*

7           “(g) *PROMOTION*.—

8           “(1) *IN GENERAL*.—*An officer participating in a*  
9           *program under this section shall not, while partici-*  
10           *pating in the program, be eligible for consideration*  
11           *for promotion under subtitle B.*

12           “(2) *RETURN TO SERVICE*.—*Upon the return of*  
13           *an officer to active duty after completion by the offi-*  
14           *cer of participation in a program under this sec-*  
15           *tion—*

16           “(A) *the Secretary may adjust the date of*  
17           *rank of the officer in such manner as the Sec-*  
18           *retary shall prescribe in regulations for purposes*  
19           *of this section; and*

20           “(B) *the officer shall be eligible for consider-*  
21           *ation for promotion when officers of the same*  
22           *competitive category, grade, and seniority are el-*  
23           *igible for consideration for promotion.*

24           “(h) *CONTINUED ENTITLEMENTS*.—*An officer partici-*  
25           *pating in a program under this section shall, while partici-*

1 *pating in the program, be treated as a member of the uni-*  
 2 *formed services on active duty for a period of more than*  
 3 *30 days for purposes of—*

4           “(1) *the entitlement of the officer and of the de-*  
 5 *pendents of the officer to medical and dental care*  
 6 *under the provisions of chapter 55 of title 10, United*  
 7 *States Code; and*

8           “(2) *retirement or separation for physical dis-*  
 9 *ability under the provisions of subtitle C.”.*

10       **(b) CLERICAL AMENDMENT.**—*The table of contents in*  
 11 *section 1 of the Act entitled “An Act to reauthorize the Hy-*  
 12 *drographic Services Improvement Act of 1998, and for other*  
 13 *purposes” (Public Law 107–372), as amended by section*  
 14 *306(b), is further amended by inserting after the item relat-*  
 15 *ing to section 235 the following:*

*“Sec. 236. Career flexibility to enhance retention of officers.”.*

16           **TITLE IV—SEPARATION AND**  
 17           **RETIREMENT OF OFFICERS**

18       **SEC. 401. INVOLUNTARY RETIREMENT OR SEPARATION.**

19       *Section 241 (33 U.S.C. 3041) is amended by adding*  
 20 *at the end the following:*

21           “(d) **DEFERMENT OF RETIREMENT OR SEPARATION**  
 22 **FOR MEDICAL REASONS.**—

23           “(1) **IN GENERAL.**—*If the Secretary determines*  
 24 *that the evaluation of the medical condition of an of-*  
 25 *ficer requires hospitalization or medical observation*

1       *that cannot be completed with confidence in a man-*  
2       *ner consistent with the officer's well-being before the*  
3       *date on which the officer would otherwise be required*  
4       *to retire or be separated under this section, the Sec-*  
5       *retary may defer the retirement or separation of the*  
6       *officer.*

7               “(2) *CONSENT REQUIRED.*—*A deferment may*  
8       *only be made with the written consent of the officer*  
9       *involved. If the officer does not provide written con-*  
10       *sent to the deferment, the officer shall be retired or*  
11       *separated as scheduled.*

12               “(3) *LIMITATION.*—*A deferment of retirement or*  
13       *separation under this subsection may not extend for*  
14       *more than 30 days after completion of the evaluation*  
15       *requiring hospitalization or medical observation.”.*

16   **SEC. 402. SEPARATION PAY.**

17       *Section 242 (33 U.S.C. 3042) is amended by adding*  
18       *at the end the following:*

19               “(d) *EXCEPTION.*—*An officer discharged for twice fail-*  
20       *ing selection for promotion to the next higher grade is not*  
21       *entitled to separation pay under this section if the officer—*

22               “(1) *expresses a desire not to be selected for pro-*  
23       *motion; or*

24               “(2) *requests removal from the list of selectees.”.*

1 **TITLE V—OTHER NATIONAL OCE-**  
2 **ANIC AND ATMOSPHERIC AD-**  
3 **MINISTRATION MATTERS**

4 **SEC. 501. CHARTING AND SURVEY SERVICES.**

5 (a) *IN GENERAL.*—Not later than 270 days after the  
6 development of the strategy required by section 1002(b) of  
7 the Frank LoBiondo Coast Guard Authorization Act of  
8 2018 (33 U.S.C. 892a note), the Secretary of Commerce  
9 shall enter into not fewer than 2 multi-year contracts with  
10 1 or more private entities for the performance of charting  
11 and survey services by vessels.

12 (b) *CHARTING AND SURVEYS IN THE ARCTIC.*—In so-  
13 liciting and engaging the services of vessels under subsection  
14 (a), the Secretary shall particularly emphasize the need for  
15 charting and surveys in the Arctic.

16 **SEC. 502. LEASES AND CO-LOCATION AGREEMENTS.**

17 (a) *IN GENERAL.*—Notwithstanding any other provi-  
18 sion of law, in fiscal year 2020 and each fiscal year there-  
19 after, the Administrator of the National Oceanic and At-  
20 mospheric Administration may execute noncompetitive  
21 leases and co-location agreements for real property and in-  
22 cidental goods and services with entities described in sub-  
23 section (b) for periods of not more than 30 years, if each  
24 such lease or agreement is supported by a price reasonable-  
25 ness analysis.

1       (b) *ENTITIES DESCRIBED.*—An entity described in  
2 this subsection is—

3           (1) the government of any State, territory, pos-  
4 session, or locality in the United States;

5           (2) any Tribal organization (as defined in sec-  
6 tion 4 of the Indian Self-Determination and Edu-  
7 cation Assistance Act (25 U.S.C. 5304));

8           (3) any subdivision of—

9               (A) a government described in paragraph  
10 (1); or

11               (B) an organization described in paragraph  
12 (2); or

13           (4) any organization that is—

14               (A) organized under the laws of the United  
15 States or any jurisdiction within the United  
16 States; and

17               (B) described in section 501(c) of the Inter-  
18 nal Revenue Code of 1986 and exempt from tax  
19 under section 501(a) of such Code.

20       (c) *FISCAL YEAR LIMITATION.*—The obligation of  
21 amounts for leases and agreements executed under sub-  
22 section (a) is limited to the fiscal year for which payments  
23 are due, without regard to sections 1341(a)(1), 1501(a)(1),  
24 1502(a), and 1517(a) of title 31, United States Code.

1           (d) *COLLABORATION AGREEMENTS.*—Upon the execu-  
2           tion of a lease or agreement authorized by subsection (a)  
3           with an entity, the Administrator may enter into agree-  
4           ments with the entity to collaborate or engage in projects  
5           or programs on matters of mutual interest for periods not  
6           to exceed the term of the lease or agreement. The cost of  
7           such agreements shall be apportioned equitably, as deter-  
8           mined by the Administrator.

9           **SEC. 503. SATELLITE AND DATA MANAGEMENT.**

10           Section 301 of the Weather Research and Forecasting  
11           Innovation Act of 2017 (15 U.S.C. 8531) is amended—

12                   (1) in subsection (c)(1), by striking subpara-  
13                   graph (D) and inserting the following:

14                           “(D) improve—

15                                   “(i) weather and climate forecasting  
16                                   and predictions; and

17                                   “(ii) the understanding, management,  
18                                   and exploration of the ocean.”; and

19                   (2) in subsection (d)—

20                           (A) in paragraph (1)—

21                                   (i) by striking “data and satellite sys-  
22                                   tems” and inserting “data, satellite, and  
23                                   other observing systems”; and

1                   (ii) by striking “to carry out” and all  
2                   that follows and inserting the following: “to  
3                   carry out—

4                   “(A) basic, applied, and advanced research  
5                   projects and ocean exploration missions to meet  
6                   the objectives described in subparagraphs (A)  
7                   through (D) of subsection (c)(1); or

8                   “(B) any other type of project to meet other  
9                   mission objectives, as determined by the Under  
10                  Secretary.”;

11                  (B) in paragraph (2)(B)(i), by striking  
12                  “satellites” and all that follows and inserting  
13                  “systems, including satellites, instrumentation,  
14                  ground stations, data, and data processing;”;  
15                  and

16                  (C) in paragraph (3), by striking “2023”  
17                  and inserting “2030”.





Calendar No. 561

116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2981**

[Report No. 116-273]

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## **A BILL**

To reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, and for other purposes.

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SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2020

Reported with an amendment