

116TH CONGRESS  
1ST SESSION

# H. R. 2406

To amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 to make certain changes to the National Oceanic and Atmospheric Administration's commissioned officer corps, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2019

Mr. CASE (for himself, Mr. YOUNG, and Mr. HUFFMAN) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Oversight and Reform, Armed Services, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 to make certain changes to the National Oceanic and Atmospheric Administration's commissioned officer corps, 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. Recruiting materials.

Sec. 106. 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. Assistant Administrator of the Office of Marine and Aviation Oper-  
 ations.

Sec. 304. Temporary appointments.

Sec. 305. Officer candidates.

Sec. 306. Procurement of personnel.

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

Sec. 401. Involuntary retirement or separation.

Sec. 402. Separation pay.

1 **SEC. 2. REFERENCES TO NATIONAL OCEANIC AND ATMOS-**  
 2 **PHERIC ADMINISTRATION COMMISSIONED**  
 3 **OFFICER CORPS ACT OF 2002.**

4 Except as otherwise expressly provided, any place in  
 5 this Act an amendment or repeal is expressed in terms  
 6 of an amendment to, or repeal of, a section or other provi-  
 7 sion, the reference shall be considered to be made to a  
 8 section or other provision of the National Oceanic and At-  
 9 mospheric Administration Commissioned Officer Corps  
 10 Act of 2002 (33 U.S.C. 3001 et seq.).

11 **TITLE I—GENERAL PROVISIONS**

12 **SEC. 101. STRENGTH AND DISTRIBUTION IN GRADE.**

13 Section 214 (33 U.S.C. 3004) is amended to read as  
 14 follows:

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

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

19 “(1) Vice admiral.

20 “(2) Rear admiral.

21 “(3) Rear admiral (lower half).

22 “(4) Captain.

23 “(5) Commander.

24 “(6) Lieutenant commander.

25 “(7) Lieutenant.

26 “(8) Lieutenant (junior grade).

1           “(9) Ensign.

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

6           “(c) ANNUAL COMPUTATION OF NUMBER IN  
7 GRADE.—

8           “(1) IN GENERAL.—Not less frequently than  
9 once each year, the Secretary shall determine the  
10 number of officers on the lineal list authorized to be  
11 serving in each grade.

12           “(2) METHOD OF DETERMINATION.—The num-  
13 ber in each grade shall be determined by applying  
14 the applicable percentage to the total number of  
15 such officers serving on active duty on the date the  
16 computation is made.

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

22           “(d) TEMPORARY INCREASE IN NUMBERS.—The  
23 total number of officers authorized by law to be on the  
24 lineal list during a fiscal year may be temporarily exceeded

1 if the average number on that list during that fiscal year  
 2 does not exceed the authorized number.

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

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

14 **SEC. 102. RECALLED OFFICERS.**

15 Section 215 (33 U.S.C. 3005) is amended—

16 (1) by striking “Effective October 1, 2009, the”  
 17 and inserting “(a) IN GENERAL.—The”;

18 (2) by striking “be increased from 321 to 379  
 19 if—” and all that follows through “fiscal year.” and  
 20 inserting “not to exceed 500.”; and

21 (3) by adding at the end the following new sub-  
 22 section:

23 “(b) POSITIONS OF IMPORTANCE AND RESPONSI-  
 24 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 **SEC. 103. OBLIGATED SERVICE REQUIREMENT.**

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

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

11 “(a) IN GENERAL.—

12 “(1) REGULATIONS.—The Secretary shall pre-  
 13 scribe the obligated service requirements for appoint-  
 14 ments, training, promotions, separations, continu-  
 15 ations, and retirement of officers not otherwise cov-  
 16 ered by law.

17 “(2) WRITTEN AGREEMENTS.—The Secretary  
 18 and officers shall enter into written agreements that  
 19 describe the officers’ obligated service requirements  
 20 prescribed under paragraph (1) in return for such  
 21 appointments, training, promotions, separations, and  
 22 retirements as the Secretary considers appropriate.

23 “(b) REPAYMENT FOR FAILURE TO SATISFY RE-  
 24 QUIREMENTS.—

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

9           “(2) OBLIGATION AS DEBT TO UNITED  
10          STATES.—An obligation to reimburse the Secretary  
11          under paragraph (1) shall be considered for all pur-  
12          poses as a debt owed to the United States.

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

19          “(c) WAIVER OR SUSPENSION OF COMPLIANCE.—  
20          The Secretary may waive the service obligation of an offi-  
21          cer who—

22                 “(1) becomes unqualified to serve on active  
23                 duty in the commissioned officer corps of the Ad-  
24                 ministration because of a circumstance not within  
25                 the control of such officer; or

1 “(2) is—

2 “(A) not physically qualified for appoint-  
3 ment; and

4 “(B) determined to be unqualified for serv-  
5 ice in the commissioned officer corps of the Ad-  
6 ministration because of a physical or medical  
7 condition that was not the result of the officer’s  
8 own misconduct or grossly negligent conduct.”.

9 (b) CLERICAL AMENDMENT.—The table of contents  
10 in section 1 of the Hydrographic Services Improvement  
11 Act Amendments of 2002 (Public Law 107–372) is  
12 amended by inserting after the item relating to section  
13 215 the following:

“Sec. 216. Obligated service requirement.”.

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

15 (a) IN GENERAL.—Subtitle A (33 U.S.C. 3001 et  
16 seq.), as amended by section 103 of this Act, is further  
17 amended by adding at the end the following:

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

19 “(a) TRAINING.—The Secretary may take such meas-  
20 ures as may be necessary to ensure that officers are pre-  
21 pared to carry out their duties in the commissioned officer  
22 corps of the Administration and proficient in the skills  
23 necessary to carry out such duties. Such measures may  
24 include the following:



1           “(1) Carrying out training programs and cor-  
2       response courses, including establishing and op-  
3       erating a basic officer training program to provide  
4       initial indoctrination and maritime vocational train-  
5       ing for officer candidates as well as refresher train-  
6       ing, mid-career training, aviation training, and such  
7       other training as the Secretary considers necessary  
8       for officer development and proficiency.

9           “(2) Providing officers and officer candidates  
10      with educational materials and school supplies.

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

13          “(b) PHYSICAL FITNESS.—The Secretary shall en-  
14      sure that officers maintain a high physical state of readi-  
15      ness by establishing standards of physical fitness for offi-  
16      cers that are substantially equivalent to those prescribed  
17      for officers of the Coast Guard.”.

18          (b) CLERICAL AMENDMENT.—The table of contents  
19      in section 1 of the Hydrographic Services Improvement  
20      Act Amendments of 2002 (Public Law 107–372), as  
21      amended by this Act, is further amended by inserting after  
22      the item relating to section 216 the following:

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

1 **SEC. 105. RECRUITING MATERIALS.**

2 (a) IN GENERAL.—Subtitle A (33 U.S.C. 3001 et  
3 seq.), as amended by section 104 of this Act, is further  
4 amended by adding at the end the following:

5 **“SEC. 218. 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.”.

12 (b) CLERICAL AMENDMENT.—The table of contents  
13 in section 1 of the Hydrographic Services Improvement  
14 Act Amendments of 2002 (Public Law 107–372), as  
15 amended by this Act, is further amended by inserting after  
16 the item relating to section 217 the following:

“Sec. 218. Use of recruiting materials for public relations.”.

17 **SEC. 106. TECHNICAL CORRECTION.**

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

21 **TITLE II—PARITY AND**  
22 **RECRUITMENT**

23 **SEC. 201. EDUCATION LOANS.**

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

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

2 “(a) **AUTHORITY TO REPAY EDUCATION LOANS.—**

3 For the purpose of maintaining an adequate number of  
4 officers on active duty possessing the skills required by  
5 the commissioned officer corps, the Secretary may repay,  
6 in the case of a person described in subsection (b), a loan  
7 that—

8 “(1) was used by the person to finance edu-  
9 cation; and

10 “(2) was obtained from a governmental entity,  
11 private financial institution, educational institution,  
12 or other authorized entity.

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

15 “(1) satisfy one of the requirements specified in  
16 subsection (c);

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

20 “(3) sign a written agreement to serve on active  
21 duty, or, if on active duty, to remain on active duty  
22 for a period in addition to any other incurred active  
23 duty obligation.

24 “(c) **ACADEMIC AND PROFESSIONAL REQUIRE-**  
25 **MENTS.—**One of the following academic requirements  
26 must be satisfied for purposes of determining the eligi-

1 bility of an individual for a loan repayment under this sec-  
2 tion:

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

7 “(2) The person is enrolled as a full-time stu-  
8 dent in the final year of a course of study at an ac-  
9 credited educational institution (as determined by  
10 the Secretary of Education) leading to a degree in  
11 a profession that will meet identified skill shortages  
12 in the commissioned officer corps.

13 “(d) LOAN REPAYMENTS.—

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

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

25 “(e) ACTIVE DUTY SERVICE OBLIGATION.—

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

4           “(2) LENGTH OF OBLIGATION DETERMINED  
5           UNDER REGULATIONS.—

6           “(A) IN GENERAL.—Except as provided in  
7           subparagraph (B), the length of the obligation  
8           under paragraph (1) shall be determined under  
9           regulations prescribed by the Secretary.

10          “(B) MINIMUM OBLIGATION.—The regula-  
11          tions prescribed under subparagraph (A) may  
12          not provide for a period of obligation of less  
13          than 1 year for each maximum annual amount,  
14          or portion thereof, paid on behalf of the person  
15          for qualified loans.

16          “(3) PERSONS ON ACTIVE DUTY BEFORE EN-  
17          TERING INTO AGREEMENT.—The active duty service  
18          obligation of persons on active duty before entering  
19          into the agreement shall be served after the conclu-  
20          sion of any other obligation incurred under the  
21          agreement.

22          “(f) EFFECT OF FAILURE TO COMPLETE OBLIGA-  
23          TION.—

24          “(1) ALTERNATIVE OBLIGATIONS.—An officer  
25          who is relieved of the officer’s active duty obligation

1 under this section before the completion of that obli-  
 2 gation may be given any alternative obligation, at  
 3 the discretion of the Secretary.

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

10 “(g) REGULATIONS.—The Secretary shall prescribe  
 11 regulations to carry out this section, including—

12 “(1) standards for qualified loans and author-  
 13 ized payees; and

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

16 (b) CLERICAL AMENDMENT.—The table of contents  
 17 in section 1 of the Hydrographic Services Improvement  
 18 Act Amendments of 2002 (Public Law 107–372), as  
 19 amended by this Act, is further amended by inserting after  
 20 the item relating to section 266 the following:

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

21 **SEC. 202. INTEREST PAYMENTS.**

22 (a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et  
 23 seq.), as amended by section 201(a) of this Act, is further  
 24 amended by adding at the end the following:

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

2 “(a) **AUTHORITY.**—The Secretary may pay the inter-  
3 est and any special allowances that accrue on one or more  
4 student loans of an eligible officer, in accordance with this  
5 section.

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

8 “(1) is serving on active duty;

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

11 “(3) is the debtor on one or more unpaid loans  
12 described in subsection (c); and

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

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

17 “(1) A loan made, insured, or guaranteed under  
18 part B of title IV of the Higher Education Act of  
19 1965 (20 U.S.C. 1071 et seq.).

20 “(2) A loan made under part D of such title  
21 (20 U.S.C. 1087a et seq.).

22 “(3) A loan made under part E of such title  
23 (20 U.S.C. 1087aa et seq.).

24 “(d) **MAXIMUM BENEFIT.**—Interest and any special  
25 allowance may be paid on behalf of an officer under this

1 section for any of the 36 consecutive months during which  
 2 the officer is eligible under subsection (b).

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

7 “(f) COORDINATION WITH SECRETARY OF EDU-  
 8 CATION.—

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

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

15 “(A) to pay interest and special allowances  
 16 on student loans under this section (in accord-  
 17 ance with sections 428(o), 455(l), and 464(j) of  
 18 the Higher Education Act of 1965 (20 U.S.C.  
 19 1078(o), 1087e(l), and 1087dd(j))); and

20 “(B) to reimburse the Secretary of Edu-  
 21 cation for any reasonable administrative costs  
 22 incurred by the Secretary in coordinating the  
 23 program under this section with the administra-  
 24 tion of the student loan programs under parts  
 25 B, D, and E of title IV of the Higher Edu-



1 cation Act of 1965 (20 U.S.C. 1071 et seq.,  
2 1087a et seq., 1087aa et seq.).

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

7 (b) CONFORMING AMENDMENTS.—

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

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

14 (B) in paragraph (1)—

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

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

23 (2) Sections 455(l) and 464(j) of the Higher  
24 Education Act of 1965 (20 U.S.C. 1087e(l) and  
25 1087dd(j)) are each amended—

1 (A) by striking the subsection heading and  
 2 inserting “ARMED FORCES AND NOAA COM-  
 3 MISSIONED OFFICER CORPS STUDENT LOAN  
 4 INTEREST PAYMENT PROGRAMS”; and

5 (B) in paragraph (1)—

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

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

14 (c) CLERICAL AMENDMENT.—The table of contents  
 15 in section 1 of the Hydrographic Services Improvement  
 16 Act Amendments of 2002 (Public Law 107–372), as  
 17 amended by this Act, is further amended by inserting after  
 18 the item relating to section 267 the following:

“Sec. 268. Interest payment program.”.

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

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

1   **“SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION AS-**  
2                   **SISTANCE PROGRAM.**

3           “(a) AUTHORITY TO PROVIDE FINANCIAL ASSIST-  
4   ANCE.—For the purpose of maintaining adequate numbers  
5   of officers of the commissioned officer corps of the Admin-  
6   istration on active duty, the Secretary may provide finan-  
7   cial assistance to a person described in subsection (b) for  
8   expenses of such person while such person is pursuing on  
9   a full-time basis at an accredited educational institution  
10  (as determined by the Secretary of Education) a program  
11  of education approved by the Secretary that leads to—

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

14           “(2) a postbaccalaureate degree.

15           “(b) ELIGIBLE PERSONS.—

16           “(1) IN GENERAL.—A person is eligible to ob-  
17   tain financial assistance under subsection (a) if such  
18   person—

19           “(A) is enrolled on a full-time basis in a  
20   program of education referred to in subsection  
21   (a) at any educational institution described in  
22   such subsection;

23           “(B) meets all of the requirements for ac-  
24   ceptance into the commissioned officer corps of  
25   the Administration except for the completion of  
26   a baccalaureate degree; and

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

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

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

9 “(B) upon completion of such person’s  
10 educational program, agrees to serve on active  
11 duty, immediately after appointment, for—

12 “(i) up to 3 years if such person re-  
13 ceived less than 3 years of assistance; and

14 “(ii) up to 5 years if such person re-  
15 ceived at least 3 years of assistance.

16 “(c) QUALIFYING EXPENSES.—Expenses for which  
17 financial assistance may be provided under subsection (a)  
18 are the following:

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

21 “(2) The cost of educational materials.

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

1           “(4) Such other expenses as the Secretary con-  
2           siders appropriate.

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

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

13          “(f) SUBSISTENCE ALLOWANCE.—

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

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

25          “(g) INITIAL CLOTHING ALLOWANCE.—

1           “(1) TRAINING.—The Secretary may prescribe  
2           a sum which shall be credited to each person who re-  
3           ceives financial assistance under subsection (a) to  
4           cover the cost of the person’s initial clothing and  
5           equipment issue.

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

13          “(h) TERMINATION OF FINANCIAL ASSISTANCE.—

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

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

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

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

1           “(2) REIMBURSEMENT.—The Secretary may re-  
2       quire a person who receives assistance described in  
3       subsection (c), (f), or (g) under an agreement en-  
4       tered into under subsection (b)(1)(C) to reimburse  
5       the Secretary in an amount that bears the same  
6       ratio to the total costs of the assistance provided to  
7       that person as the unserved portion of active duty  
8       bears to the total period of active duty the officer  
9       agreed to serve under the agreement.

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

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

18           “(B) is—

19           “(i) not physically qualified for ap-  
20       pointment; and

21           “(ii) determined to be unqualified for  
22       service in the commissioned officer corps of  
23       the Administration because of a physical or  
24       medical condition that was not the result

1 of the person's own misconduct or grossly  
2 negligent conduct.

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

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

14 “(i) REGULATIONS.—The Secretary may promulgate  
15 such regulations and orders as the Secretary considers ap-  
16 propriate to carry out this section.

17 “(j) MINORITY INSTITUTIONS.—In carrying out this  
18 section, the Secretary may prioritize persons described in  
19 subsection (b) who attend minority institutions as defined  
20 by section 365(3) of the Higher Education Act (20 U.S.C.  
21 1067k(3)).”.

22 (b) CLERICAL AMENDMENT.—The table of contents  
23 in section 1 of the Hydrographic Services Improvement  
24 Act Amendments of 2002 (Public Law 107–372), as



1 amended by this Act, is further amended by inserting after  
2 the item relating to section 268 the following:

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

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

4 (a) IN GENERAL.—Each fiscal year, beginning with  
5 the fiscal year in which this Act is enacted, the Secretary  
6 of Commerce shall ensure that the total amount expended  
7 by the Secretary under sections 267 through 269 of the  
8 National Oceanic and Atmospheric Administration Com-  
9 missioned Officer Corps Act of 2002, as amended by this  
10 Act, does not exceed the amount by which—

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

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

21 (b) OFFICER CANDIDATE DEFINED.—In this section,  
22 the term “officer candidate” has the meaning given the  
23 term in section 212 of the National Oceanic and Atmos-  
24 pheric Administration Commissioned Officer Corps Act of  
25 2002 (33 U.S.C. 3002), as added by section 305(c).

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 redes-  
26 ignated, the following:

1 “(11) Section 1074n, relating to annual mental  
2 health assessments for members of the Armed  
3 Forces.

4 “(12) Section 1090a, relating to commanding  
5 officer and supervisor referrals of members for men-  
6 tal health evaluations.

7 “(13) Chapter 58, relating to the benefits and  
8 services for members being separated or recently  
9 separated.”; and

10 (6) by inserting after paragraph (19), as redes-  
11 ignated, the following:

12 “(20) Subchapter I of chapter 88, relating to  
13 military family programs.

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

17 (b) EXTENSION OF CERTAIN AUTHORITIES.—

18 (1) NOTARIAL SERVICES.—Section 1044a of  
19 title 10, United States Code, is amended—

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

23 (B) in subsection (b)(4), by striking  
24 “armed forces” both places it appears and in-  
25 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:

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

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

19           (A) in subsection (a)—

20                   (i) by inserting “or the commissioned  
21                   officer corps of the National Oceanic and  
22                   Atmospheric Administration” after “in the  
23                   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 SIONED 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 special pay and  
 21 accession bonuses for new officers in critical skills.

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

1           “(3) Section 415, relating to initial uniform al-  
2           lowances.

3           “(4) Section 488, relating to allowances for re-  
4           cruiting expenses.

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

7           “(b) FIELD DUTY AND SEA DUTY.—The Secretary  
8           may prescribe definitions for the terms ‘field duty’ and  
9           ‘sea duty’ for the purposes of section 413 of title 37,  
10          United States Code, with respect to the commissioned offi-  
11          cer corps of the Administration.

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

19          (b) PERSONAL MONEY ALLOWANCE.—Section 414 of  
20          title 37, United States Code, is amended by inserting “or  
21          the Director of the commissioned officer corps of the Na-  
22          tional Oceanic and Atmospheric Administration” after  
23          “Health Service”.

24          (c) CLERICAL AMENDMENT.—The table of contents  
25          in section 1 of the Hydrographic Services Improvement

1 Act Amendments of 2002 (Public Law 107–372), as  
 2 amended by this Act, is further amended by inserting after  
 3 the item relating to section 261 the following:

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

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

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

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

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

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

17 (b) CONFORMING AMENDMENT.—Subsection (b) of  
 18 such section is amended—

19 (1) by striking “The” and inserting “(a) The”;  
 20 and

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

22 “(b) For purposes of subsection (a)(8), the term ‘In-  
 23 spector General’ in section 1034 of title 10 shall mean  
 24 the Inspector General of the Department of Commerce.”.

1 (c) REGULATIONS.—Such section is further amended  
2 by adding at the end the following:

3 “(c) REGULATIONS REGARDING PROTECTED COM-  
4 MUNICATIONS AND PROHIBITION OF RETALIATORY PER-  
5 SONNEL ACTIONS.—The Secretary may promulgate regu-  
6 lations to carry out section 261(a)(8), including by pro-  
7 mulgating such administrative procedures for investiga-  
8 tion and appeal within the commissioned officer corps as  
9 the Secretary considers appropriate.”.

10 **SEC. 208. APPLICATION OF CERTAIN PROVISIONS OF COM-**  
11 **PETITIVE SERVICE LAW.**

12 Section 3304(f) of title 5, United States Code, is  
13 amended—

14 (1) by amending paragraph (1) to read as fol-  
15 lows:

16 “(1) The following individuals may not be de-  
17 nied the opportunity to compete for vacant positions  
18 for which the agency making the announcement will  
19 accept applications from individuals outside its own  
20 workforce under merit promotion procedures:

21 “(A) Preference eligibles.

22 “(B) Veterans who have been separated  
23 from the Armed Forces under honorable condi-  
24 tions after 3 years or more of active service.



1           “(C) Members of the commissioned officer  
 2           corps of the National Oceanic and Atmospheric  
 3           Administration separated from such officer  
 4           corps under honorable conditions after 3 years  
 5           or more of active service.”;

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

8           (3) in paragraph (4), by striking “preference  
 9           eligibles” and all that follows through “service” and  
 10          inserting “individuals described in paragraph (1)”.

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

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

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

19          (a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et  
 20          seq.), as amended by section 206(a) of this Act, is further  
 21          amended by adding at the end the following:

1   **“SEC. 270. TREATMENT OF COMMISSION IN COMMISSIONED**  
2                   **OFFICER CORPS AS EMPLOYMENT IN ADMIN-**  
3                   **ISTRATION FOR PURPOSES OF CERTAIN HIR-**  
4                   **ING DECISIONS.**

5       “(a) IN GENERAL.—In any case in which the Sec-  
6   retary accepts an application for a position of employment  
7   with the Administration and limits consideration of appli-  
8   cations for such position to applications submitted by indi-  
9   viduals serving in a career or career-conditional position  
10  in the competitive service within the Administration, the  
11  Secretary shall deem an officer who has served as an offi-  
12  cer in the commissioned officer corps for at least 3 years  
13  to be serving in a career or career-conditional position in  
14  the competitive service within the Administration for pur-  
15  poses of such limitation.

16       “(b) CAREER APPOINTMENTS.—If the Secretary se-  
17  lects an application submitted by an officer described in  
18  subsection (a) for a position described in such subsection,  
19  the Secretary shall give such officer a career or career-  
20  conditional appointment in the competitive service, as ap-  
21  propriate.

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

25       (b) CLERICAL AMENDMENT.—The table of contents  
26  in section 1 of the Hydrographic Services Improvement

1 Act Amendments of 2002 (Public Law 107–372), as  
 2 amended by this Act, is further amended by inserting after  
 3 the item relating to section 269 the following:

“Sec. 270. Treatment of commission in commissioned officer corps as employ-  
 ment in Administration for purposes of certain hiring deci-  
 sions.”.

## 4 **TITLE III—APPOINTMENTS AND** 5 **PROMOTION OF OFFICERS**

### 6 **SEC. 301. APPOINTMENTS.**

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

### 9 **“SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINT-** 10 **MENTS.**

11 “(a) ORIGINAL APPOINTMENTS.—

12 “(1) GRADES.—

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

17 “(i) the qualification, experience, and  
 18 length of service of the appointee; and

19 “(ii) the commissioned officer corps of  
 20 the Administration.

21 “(B) APPOINTMENT OF OFFICER CAN-  
 22 DIDATES.—

23 “(i) LIMITATION ON GRADE.—An  
 24 original appointment of an officer can-

1           didate, upon graduation from the basic of-  
2           ficer training program of the commissioned  
3           officer corps of the Administration, may  
4           not be made in any other grade than en-  
5           sign.

6           “(ii) RANK.—Officer candidates re-  
7           ceiving appointments as ensigns upon  
8           graduation from basic officer training pro-  
9           gram shall take rank according to their  
10          proficiency as shown by the order of their  
11          merit at date of graduation.

12          “(2) SOURCE OF APPOINTMENTS.—An original  
13          appointment may be made from among the fol-  
14          lowing:

15               “(A) Graduates of the basic officer train-  
16               ing program of the commissioned officer corps  
17               of the Administration.

18               “(B) Graduates of the military service  
19               academies of the United States who otherwise  
20               meet the academic standards for enrollment in  
21               the training program described in subparagraph  
22               (A).

23               “(C) Graduates of the maritime academies  
24               of the States who—

1           “(i) otherwise meet the academic  
2 standards for enrollment in the training  
3 program described in subparagraph (A);

4           “(ii) completed at least 3 years of  
5 regimented training while at a maritime  
6 academy of a State; and

7           “(iii) obtained an unlimited tonnage  
8 or unlimited horsepower Merchant Mariner  
9 Credential from the United States Coast  
10 Guard.

11           “(D) Licensed officers of the United States  
12 merchant marine who have served two or more  
13 years aboard a vessel of the United States in  
14 the capacity of a licensed officer, who otherwise  
15 meet the academic standards for enrollment in  
16 the training program described in subparagraph  
17 (A).

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

19           “(A) MARITIME ACADEMIES OF THE  
20 STATES.—The term ‘maritime academies of the  
21 States’ means the following:

22           “(i) California Maritime Academy,  
23 Vallejo, California.

24           “(ii) Great Lakes Maritime Academy,  
25 Traverse City, Michigan.

1 “(iii) Maine Maritime Academy,  
2 Castine, Maine.

3 “(iv) Massachusetts Maritime Acad-  
4 emy, Buzzards Bay, Massachusetts.

5 “(v) State University of New York  
6 Maritime College, Fort Schuyler, New  
7 York.

8 “(vi) Texas A&M Maritime Academy,  
9 Galveston, Texas.

10 “(B) MILITARY SERVICE ACADEMIES OF  
11 THE UNITED STATES.—The term ‘military serv-  
12 ice academies of the United States’ means the  
13 following:

14 “(i) The United States Military Acad-  
15 emy.

16 “(ii) The United States Naval Acad-  
17 emy.

18 “(iii) The United States Air Force  
19 Academy.

20 “(iv) The United States Coast Guard  
21 Academy.

22 “(v) The United States Merchant Ma-  
23 rine Academy.

24 “(b) REAPPOINTMENT.—

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

6           “(2) REAPPOINTMENTS TO HIGHER GRADES.—  
7           An appointment under paragraph (1) to a position  
8           of importance and responsibility designated under  
9           section 228 may only be made by the President.

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

16          “(d) PRECEDENCE OF APPOINTEES.—Appointees  
17       under this section shall take precedence in the grade to  
18       which appointed in accordance with the dates of their com-  
19       missions as commissioned officers in such grade. Ap-  
20       pointees whose dates of commission are the same shall  
21       take precedence with each other as the Secretary shall de-  
22       termine.

23          “(e) INTER-SERVICE TRANSFERS.—For inter-service  
24       transfers (as described in the Department of Defense Di-

1 rective 1300.4 (dated December 27, 2006)) the Secretary  
2 shall—

3 “(1) coordinate with the Secretary of Defense  
4 and the Secretary of the Department in which the  
5 Coast Guard is operating to promote and streamline  
6 inter-service transfers;

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

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

13 (b) CLERICAL AMENDMENT.—The table of contents  
14 in section 1 of the Hydrographic Services Improvement  
15 Act Amendments of 2002 (Public Law 107–372), as  
16 amended by this Act, is further amended by inserting after  
17 the item relating to section 220 the following

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

18 **SEC. 302. PERSONNEL BOARDS.**

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

21 **“SEC. 222. PERSONNEL BOARDS.**

22 “(a) CONVENING.—Not less frequently than once  
23 each year and at such other times as the Secretary deter-  
24 mines necessary, the Secretary shall convene a personnel  
25 board.



1 “(b) MEMBERSHIP.—

2 “(1) IN GENERAL.—A board convened under  
3 subsection (a) shall consist of five or more officers  
4 who are serving in or above the permanent grade of  
5 the officers under consideration by the board.

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

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

13 “(c) DUTIES.—Each personnel board shall—

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

18 “(2) make selections and recommendations to  
19 the Secretary and the President for the appoint-  
20 ment, promotion, involuntary separation, continu-  
21 ation, and involuntary retirement of officers in the  
22 commissioned officer corps of the Administration as  
23 prescribed in this title.

24 “(d) ACTION ON RECOMMENDATIONS NOT ACCEPT-  
25 ABLE.—If any recommendation by a board convened

1 under subsection (a) is not accepted by the Secretary or  
2 the President, the board shall make such further rec-  
3 ommendations as the Secretary or the President considers  
4 appropriate.”.

5 **SEC. 303. ASSISTANT ADMINISTRATOR OF THE OFFICE OF**  
6 **MARINE AND AVIATION OPERATIONS.**

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

8 (1) in subsection (c)—

9 (A) the fourth sentence, by striking “Di-  
10 rector” and inserting “Assistant Adminis-  
11 trator”; and

12 (B) in the heading, by inserting “ASSIST-  
13 ANT ADMINISTRATOR OF THE” before “OF-  
14 FICE”;

15 (2) in paragraph (2) of subsection (d), by in-  
16 serting “or immediately beginning a period of ter-  
17 minal leave” before “, revert to”;

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

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

1 (4) in subsection (f), by inserting “or in a pe-  
 2 riod of terminal leave” before “, shall have the pay”.

3 **SEC. 304. TEMPORARY APPOINTMENTS.**

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

6 **“SEC. 229. TEMPORARY APPOINTMENTS.**

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

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

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

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

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 in section 1 of the Hydrographic Services Improvement  
3 Act Amendments of 2002 (Public Law 107–372), as  
4 amended by this Act, is further amended by striking the  
5 item relating to section 229 and inserting the following:

“Sec. 229. Temporary appointments.”.

6 **SEC. 305. OFFICER CANDIDATES.**

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

9 **“SEC. 234. OFFICER CANDIDATES.**

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

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

20 “(c) DISMISSAL.—The Secretary may dismiss from  
21 the basic officer training program of the Administration  
22 any officer candidate who, during the officer candidate’s  
23 term as an officer candidate, the Secretary considers un-  
24 satisfactory in either academics or conduct, or not adapted  
25 for a career in the commissioned officer corps of the Ad-

1 ministration. Officer candidates shall be subject to rules  
2 governing discipline prescribed by the Director of the Na-  
3 tional Oceanic and Atmospheric Administration Commis-  
4 sioned Officer Corps.

5 “(d) AGREEMENT.—

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

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

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

17 “(B) That upon graduation from the such  
18 program, the officer candidate—

19 “(i) will accept an appointment, if  
20 tendered, as an officer; and

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

1       “(e) REGULATIONS.—The Secretary shall prescribe  
2 regulations to carry out this section. Such regulations  
3 shall include—

4               “(1) standards for determining what constitutes  
5 a breach of an agreement signed under such sub-  
6 section (d)(1); and

7               “(2) procedures for determining whether such a  
8 breach has occurred.

9       “(f) REPAYMENT.—An officer candidate or former  
10 officer candidate who does not fulfill the terms of the obli-  
11 gation to serve as specified under section (d) shall be sub-  
12 ject to the repayment provisions of section 216(b).”.

13       (b) CLERICAL AMENDMENT.—The table of contents  
14 in section 1 of the Hydrographic Services Improvement  
15 Act Amendments of 2002 (Public Law 107–372), as  
16 amended by this Act, is further amended by inserting after  
17 the item relating to section 233 the following:

“Sec. 234. Officer candidates.”.

18       (c) OFFICER CANDIDATE DEFINED.—Section 212(b)  
19 (33 U.S.C. 3002(b)) is amended by inserting after para-  
20 graph (6) the following:

21               “(7) 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 a monthly rate equal to the basic  
9 pay of an enlisted member in the pay grade E–5 with less  
10 than 2 years 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) of this Act, is further  
20 amended 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 Hydrographic Services Improvement  
 3 Act Amendments of 2002 (Public Law 107–372), as  
 4 amended by this Act, is further amended by inserting after  
 5 the item relating to section 234 the following:

“235. Procurement of personnel.”.

## 6 **TITLE IV—SEPARATION AND** 7 **RETIREMENT OF OFFICERS**

### 8 **SEC. 401. INVOLUNTARY RETIREMENT OR SEPARATION.**

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

11 “(d) DEFERMENT OF RETIREMENT OR SEPARATION  
 12 FOR MEDICAL REASONS.—

13 “(1) IN GENERAL.—If the Secretary determines  
 14 that the evaluation of the medical condition of an of-  
 15 ficer requires hospitalization or medical observation  
 16 that cannot be completed with confidence in a man-  
 17 ner consistent with the officer’s well being before the  
 18 date on which the officer would otherwise be re-  
 19 quired to retire or be separated under this section,  
 20 the Secretary may defer the retirement or separation  
 21 of the officer.

22 “(2) CONSENT REQUIRED.—A deferment may  
 23 only be made with the written consent of the officer  
 24 involved. If the officer does not provide written con-



1       sent to the deferment, the officer shall be retired or  
2       separated as scheduled.

3               “(3) LIMITATION.—A deferral of retirement or  
4       separation under this subsection may not extend for  
5       more than 30 days after completion of the evalua-  
6       tion requiring hospitalization or medical observa-  
7       tion.”.

8   **SEC. 402. SEPARATION PAY.**

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

11       “(d) EXCEPTION.—An officer discharged for twice  
12   failing selection for promotion to the next higher grade  
13   is not entitled to separation pay under this section if the  
14   officer—

15               “(1) expresses a desire not to be selected for  
16   promotion; or

17               “(2) requests removal from the list of select-  
18   ees.”.

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