

107TH CONGRESS
2D SESSION

H. R. 4883

AN ACT

To reauthorize the Hydrographic Services Improvement Act
of 1998, and for other purposes.

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

3 **SECTION 1. TABLE OF CONTENTS.**

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- Sec. 302. Reauthorization and amendment of the Interjurisdictional Fisheries Act of 1986.
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1 **TITLE I—NOAA HYDROGRAPHIC** 2 **SERVICES IMPROVEMENT**

3 **SEC. 101. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This title may be cited as the
5 “Hydrographic Services Improvement Act Amendments of
6 2002”.

7 (b) REFERENCES.—Except as otherwise expressly
8 provided, whenever in this title an amendment or repeal

1 is expressed in terms of an amendment to, or repeal of,
 2 a section or other provision, the reference shall be consid-
 3 ered to be made to a section or other provision of the Hy-
 4 drographic Services Improvement Act of 1998 (33 U.S.C.
 5 892 et seq.).

6 **SEC. 102. DEFINITIONS.**

7 Section 302 (33 U.S.C. 892) is amended—

8 (1) in paragraph (3) by inserting “, geospatial,
 9 or geomagnetic” after “geodetic”; and

10 (2) in paragraph (4) by inserting “geospatial,
 11 geomagnetic,” after “geodetic,”.

12 **SEC. 103. FUNCTIONS OF ADMINISTRATOR.**

13 (a) HYDROGRAPHIC MONITORING SYSTEMS.—Sec-
 14 tion 303(b)(4) (33 U.S.C. 892a(b)(4)) is amended to read
 15 as follows:

16 “(4) shall, subject to the availability of appro-
 17 priations, design, install, maintain, and operate real-
 18 time hydrographic monitoring systems to enhance
 19 navigation safety and efficiency.”.

20 (b) CONSERVATION AND MANAGEMENT OF COASTAL
 21 AND OCEAN RESOURCES.—Section 303 (33 U.S.C. 892a)
 22 is further amended by adding at the end the following:

23 “(c) CONSERVATION AND MANAGEMENT OF COASTAL
 24 AND OCEAN RESOURCES.—Where appropriate and to the
 25 extent that it does not detract from the promotion of safe

1 and efficient navigation, the Secretary may use hydro-
2 graphic data and services to support the conservation and
3 management of coastal and ocean resources.”.

4 **SEC. 104. QUALITY ASSURANCE PROGRAM.**

5 (a) IN GENERAL.—Section 304(b)(1) (33 U.S.C.
6 892b(b)(1)) is amended to read as follows:

7 “(1) IN GENERAL.—The Administrator—

8 “(A) by not later than 2 years after the
9 date of enactment of the Hydrographic Services
10 Improvement Act Amendments of 2002, shall,
11 subject to the availability of appropriations, de-
12 velop and implement a quality assurance pro-
13 gram that is equally available to all applicants,
14 under which the Administrator may certify hy-
15 drographic products that satisfy the standards
16 promulgated by the Administrator under section
17 303(a)(3) of this Act;

18 “(B) may authorize the use of the emblem
19 or any trademark of the Administration on a
20 hydrographic product certified under subpara-
21 graph (A); and

22 “(C) may charge a fee for such certifi-
23 cation and use.”.

1 **SEC. 105. HYDROGRAPHIC SERVICES REVIEW PANEL.**

2 Section 305 (33 U.S.C. 892c) is amended to read as
3 follows:

4 **“SEC. 305. HYDROGRAPHIC SERVICES REVIEW PANEL.**

5 “(a) ESTABLISHMENT.—No later than 1 year after
6 the date of enactment of the Hydrographic Services Im-
7 provement Act Amendments of 2002, the Secretary shall
8 establish the Hydrographic Services Review Panel.

9 “(b) DUTIES.—

10 “(1) IN GENERAL.—The panel shall advise the
11 Administrator on matters related to the responsibil-
12 ities and authorities set forth in section 303 of this
13 Act and such other appropriate matters as the Ad-
14 ministrator refers to the panel for review and advice.

15 “(2) ADMINISTRATIVE RESOURCES.—The Ad-
16 ministrator shall make available to the panel such
17 information, personnel, and administrative services
18 and assistance as it may reasonably require to carry
19 out its duties.

20 “(c) MEMBERSHIP.—

21 “(1) IN GENERAL.—

22 “(A) The panel shall consist of 15 voting
23 members who shall be appointed by the Admin-
24 istrator. The Director of the Joint Hydro-
25 graphic Institute and no more than 2 employees
26 of the National Oceanic and Atmospheric Ad-

1 ministration appointed by the Administrator
2 shall serve as nonvoting members of the panel.
3 The voting members of the panel shall be indi-
4 viduals who, by reason of knowledge, experi-
5 ence, or training, are especially qualified in one
6 or more of the disciplines and fields relating to
7 hydrographic surveying, tide, current geodetic
8 and geospatial measurement, marine transpor-
9 tation, port administration, vessel pilotage, and
10 coastal and fishery management.

11 “(B) An individual may not be appointed
12 as a voting member of the panel if the indi-
13 vidual is a full-time officer or employee of the
14 United States.

15 “(C) Any voting member of the panel who
16 is an applicant for, or beneficiary (as deter-
17 mined by the Secretary) of, any assistance
18 under this Act shall disclose to the panel that
19 relationship, and may not vote on any matter
20 pertaining to that assistance.

21 “(2) TERMS.—

22 “(A) The term of office of a voting mem-
23 ber of the panel shall be 4 years, except that of
24 the original appointees, five shall be appointed
25 for a term of 2 years, five shall be appointed

1 for a term of 3 years, and five shall be ap-
2 pointed for a term of 4 years, as specified by
3 the Administrator at the time of appointment.

4 “(B) Any individual appointed to a partial
5 or full term may be reappointed for one addi-
6 tional full term. A voting member may serve
7 after the date of the expiration of the term of
8 office for which appointed until his or her suc-
9 cessor has taken office.

10 “(3) NOMINATIONS.—At least once each year,
11 the Secretary shall publish a notice in the Federal
12 Register soliciting nominations for membership on
13 the panel.

14 “(4) CHAIRMAN AND VICE CHAIRMAN.—

15 “(A) The panel shall select one voting
16 member to serve as the Chairman and another
17 voting member to serve as the Vice Chairman.

18 “(B) The Vice Chairman shall act as
19 Chairman in the absence or incapacity of the
20 Chairman.

21 “(d) COMPENSATION.—Voting members of the panel
22 shall—

23 “(1) receive compensation at a rate established
24 by the Secretary, not to exceed the maximum daily
25 rate payable under section 5376 of title 5, United

1 States Code, when actually engaged in the perform-
 2 ance of duties for such panel; and

3 “(2) be reimbursed for actual and reasonable
 4 expenses incurred in the performance of such duties.

5 “(e) MEETINGS.—The panel shall meet on a biannual
 6 basis and, at any other time, at the call of the Chairman
 7 or upon the request of a majority of the voting members
 8 or of the Secretary.

9 “(f) POWERS.—The panel may exercise such powers
 10 as are reasonably necessary in order to carry out its duties
 11 under subsection (b).”.

12 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

13 Section 306 (33 U.S.C. 892d) is amended to read as
 14 follows:

15 **“SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

16 “There are authorized to be appropriated to the Ad-
 17 ministrator the following:

18 “(1) To carry out nautical mapping and chart-
 19 ing functions under sections 303 and 304 of this
 20 Act, except for conducting hydrographic surveys—

21 “(A) \$50,000,000 for fiscal year 2003;

22 “(B) \$55,000,000 for fiscal year 2004;

23 “(C) \$60,000,000 for fiscal year 2005;

24 “(D) \$65,000,000 for fiscal year 2006;

25 and

1 “(E) \$70,000,000 for fiscal year 2007.

2 “(2) To contract for hydrographic surveys
3 under section 303(b)(1), including the leasing or
4 time chartering of vessels—

5 “(A) \$40,000,000 for fiscal year 2003;

6 “(B) \$42,500,000 for fiscal year 2004;

7 “(C) \$45,000,000 for fiscal year 2005;

8 “(D) \$47,500,000 for fiscal year 2006;

9 and

10 “(E) \$50,000,000 for fiscal year 2007.

11 “(3) To operate hydrographic survey vessels
12 owned by the United States and operated by the
13 Administration—

14 “(A) \$14,000,000 for fiscal year 2003;

15 “(B) \$18,000,000 for fiscal year 2004; and

16 “(C) \$21,000,000 for fiscal years 2005
17 through 2007.

18 “(4) To carry out geodetic functions under this
19 title—

20 “(A) \$27,500,000 for fiscal year 2003;

21 “(B) \$30,000,000 for fiscal year 2004;

22 “(C) \$32,500,000 for fiscal year 2005;

23 “(D) \$35,000,000 for fiscal year 2006;

24 and

25 “(E) \$35,500,000 for fiscal year 2007.

1 “(5) To carry out tide and current measure-
2 ment functions under this title—

3 “(A) \$25,000,000 for fiscal year 2003;

4 “(B) \$27,500,000 for fiscal year 2004;

5 “(C) \$30,000,000 for fiscal year 2005;

6 “(D) \$32,500,000 for fiscal year 2006;

7 and

8 “(E) \$35,000,000 for fiscal year 2007.

9 “(6) To carry out activities authorized under
10 this title that enhance homeland security, including
11 electronic navigation charts, hydrographic surveys,
12 real time tide and current measurements, and geo-
13 detic functions, in addition to other amounts author-
14 ized by this section, \$20,000,000.”.

15 **TITLE II—NATIONAL OCEANIC**
16 **AND ATMOSPHERIC ADMINIS-**
17 **TRATION COMMISSIONED OF-**
18 **FICER CORPS**

19 **SEC. 201. SHORT TITLE.**

20 This title may be cited as the “National Oceanic and
21 Atmospheric Administration Commissioned Officer Corps
22 Act of 2002”.

1 **Subtitle A—General Provisions**

2 **SEC. 211. COMMISSIONED OFFICER CORPS.**

3 There shall be in the National Oceanic and Atmos-
4 pheric Administration a commissioned officer corps.

5 **SEC. 212. DEFINITIONS.**

6 (a) APPLICABILITY OF DEFINITIONS IN TITLE 10,
7 UNITED STATES CODE.—Except as provided in subsection
8 (b), the definitions provided in section 101 of title 10,
9 United States Code, apply to the provisions of this title.

10 (b) ADDITIONAL DEFINITIONS.—In this title:

11 (1) ACTIVE DUTY.—The term “active duty”
12 means full-time duty in the active service of a uni-
13 formed service.

14 (2) GRADE.—The term “grade” means a step
15 or degree, in a graduated scale of office or rank,
16 that is established and designated as a grade by law
17 or regulation.

18 (3) OFFICER.—The term “officer” means an
19 officer of the commissioned corps.

20 (4) FLAG OFFICER.—The term “flag officer”
21 means an officer serving in, or having the grade of,
22 vice admiral, rear admiral, or rear admiral (lower
23 half).

24 (5) SECRETARY.—The term “Secretary” means
25 the Secretary of Commerce.

1 (6) ADMINISTRATION.—The term “Administra-
 2 tion” means the National Oceanic and Atmospheric
 3 Administration.

4 **SEC. 213. AUTHORIZED NUMBER ON THE ACTIVE LIST.**

5 (a) ANNUAL STRENGTH ON ACTIVE LIST.—The an-
 6 nual strength of the commissioned corps in officers on the
 7 lineal list of active duty officers of the corps shall be pre-
 8 scribed by law.

9 (b) LINEAL LIST.—The Secretary shall maintain a
 10 list, known as the “lineal list”, of officers on active duty.
 11 Officers shall be carried on the lineal list by grade and,
 12 within grade, by seniority in grade.

13 **SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.**

14 (a) RELATIVE RANK; PROPORTION.—Of the total au-
 15 thorized number of officers on the lineal list of the com-
 16 missioned corps, there are authorized numbers in perma-
 17 nent grade, in relative rank with officers of the Navy, in
 18 proportions as follows:

- 19 (1) 8 in the grade of captain.
- 20 (2) 14 in the grade of commander.
- 21 (3) 19 in the grade of lieutenant commander.
- 22 (4) 23 in the grade of lieutenant.
- 23 (5) 18 in the grade of lieutenant (junior grade).
- 24 (6) 18 in the grade of ensign.

25 (b) COMPUTATION OF NUMBER IN GRADE.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 whenever a final fraction occurs in computing the
3 authorized number of officers in a grade, the nearest
4 whole number shall be taken, and if the fraction is
5 one-half the next higher whole number shall be
6 taken.

7 (2) LIMITATION ON INCREASE IN TOTAL NUM-
8 BER.—The total number of officers on the lineal list
9 authorized by law may not be increased as the result
10 of the computations prescribed in this section, and
11 if necessary the number of officers in the lowest
12 grade shall be reduced accordingly.

13 (c) PRESERVATION OF GRADE AND PAY, ETC.—No
14 officer may be reduced in grade or pay or separated from
15 the commissioned corps as the result of a computation
16 made to determine the authorized number of officers in
17 the various grades.

18 (d) FILLING OF VACANCIES; ADDITIONAL NUM-
19 BERS.—Nothing in this section may be construed as re-
20 quiring the filling of any vacancy or as prohibiting addi-
21 tional numbers in any grade to compensate for vacancies
22 existing in higher grades.

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

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

3 **SEC. 215. AUTHORIZED NUMBER FOR FISCAL YEARS 2003**
4 **THROUGH 2005.**

5 There are authorized to be on the lineal list of the
6 commissioned corps of the National Oceanic and Atmos-
7 pheric Administration—

8 (1) 270 officers for fiscal year 2003;

9 (2) 285 officers for fiscal year 2004; and

10 (3) 299 officers for fiscal year 2005.

11 **Subtitle B—Appointment and**
12 **Promotion of Officers**

13 **SEC. 221. ORIGINAL APPOINTMENTS.**

14 (a) IN GENERAL.—

15 (1) GRADES.—Original appointments may be
16 made in the grades of ensign, lieutenant (junior
17 grade), and lieutenant.

18 (2) QUALIFICATIONS.—Under regulations pre-
19 scribed by the Secretary, such an appointment may
20 be given only to a person who—

21 (A) meets the qualification requirements
22 specified in paragraphs (1) through (4) of sec-
23 tion 532(a) of title 10, United States Code; and

24 (B) has such other special qualifications as
25 the Secretary may prescribe by regulation.

1 (3) EXAMINATION.—A person may be given
2 such an appointment only after passage of a mental
3 and physical examination given in accordance with
4 regulations prescribed by the Secretary.

5 (4) REVOCATION OF COMMISSION OF OFFICERS
6 FOUND NOT QUALIFIED.—The President may revoke
7 the commission of any officer appointed under this
8 section during the officer's first three years of serv-
9 ice if the officer is found not qualified for the serv-
10 ice. Any such revocation shall be made under regula-
11 tions prescribed by the President.

12 (b) LINEAL LIST.—Each person appointed under this
13 section shall be placed on the lineal list in a position com-
14 mensurate with that person's age, education, and experi-
15 ence, in accordance with regulations prescribed by the Sec-
16 retary.

17 (c) SERVICE CREDIT UPON ORIGINAL APPOINTMENT
18 IN GRADE ABOVE ENSIGN.—

19 (1) IN GENERAL.—For the purposes of basic
20 pay, a person appointed under this section in the
21 grade of lieutenant shall be credited as having, on
22 the date of that appointment, three years of service,
23 and a person appointed under this section in the
24 grade of lieutenant (junior grade) shall be credited

1 as having, as of the date of that appointment, 1½
2 years of service.

3 (2) HIGHER CREDIT UNDER OTHER LAW.—If a
4 person appointed under this section is entitled to
5 credit for the purpose of basic pay under any other
6 provision of law that would exceed the amount of
7 credit authorized by paragraph (1), that person shall
8 be credited with that amount of service in lieu of the
9 credit authorized by paragraph (1).

10 **SEC. 222. PERSONNEL BOARDS.**

11 (a) CONVENING.—At least once a year and at such
12 other times as the Secretary determines necessary, the
13 Secretary shall convene a personnel board. A personnel
14 board shall consist of not less than five officers on the
15 lineal list in the permanent grade of commander or above.

16 (b) DUTIES.—Each personnel board shall—

17 (1) recommend to the Secretary such changes
18 in the lineal list as the board may determine; and

19 (2) make selections and recommendations to
20 the Secretary and President for the appointment,
21 promotion, separation, continuation, and retirement
22 of officers as prescribed in this subtitle and subtitle
23 C.

24 (c) ACTION ON RECOMMENDATIONS NOT ACCEPT-
25 ABLE.—In a case in which any recommendation by a

1 board convened under subsection (a) is not accepted by
2 the Secretary or the President, the board shall make such
3 further recommendations as are acceptable.

4 **SEC. 223. PROMOTION OF ENSIGNS TO GRADE OF LIEUTEN-**
5 **ANT (JUNIOR GRADE).**

6 (a) IN GENERAL.—An officer in the permanent grade
7 of ensign shall be promoted to and appointed in the grade
8 of lieutenant (junior grade) upon completion of three years
9 of service. The authorized number of officers in the grade
10 of lieutenant (junior grade) shall be temporarily increased
11 as necessary to authorize such appointment.

12 (b) SEPARATION OF ENSIGNS FOUND NOT FULLY
13 QUALIFIED.—If an officer in the permanent grade of en-
14 sign is at any time found not fully qualified, the officer's
15 commission shall be revoked and the officer shall be sepa-
16 rated from the commissioned service.

17 **SEC. 224. PROMOTION BY SELECTION TO PERMANENT**
18 **GRADES ABOVE LIEUTENANT (JUNIOR**
19 **GRADE).**

20 Promotion to fill vacancies in each permanent grade
21 above the grade of lieutenant (junior grade) shall be made
22 by selection from the next lower grade upon recommenda-
23 tion of the personnel board.

1 **SEC. 225. LENGTH OF SERVICE FOR PROMOTION PUR-**
2 **POSES.**

3 (a) GENERAL RULE.—Each officer shall be assumed
4 to have, for promotion purposes, at least the same length
5 of service as any other officer below that officer on the
6 lineal list.

7 (b) EXCEPTION.—Notwithstanding subsection (a), an
8 officer who has lost numbers shall be assumed to have,
9 for promotion purposes, no greater service than the officer
10 next above such officer in such officer's new position on
11 the lineal list.

12 **SEC. 226. APPOINTMENTS AND PROMOTIONS TO PERMA-**
13 **NENT GRADES.**

14 Appointments in and promotions to all permanent
15 grades shall be made by the President, by and with the
16 advice and consent of the Senate.

17 **SEC. 227. GENERAL QUALIFICATION OF OFFICERS FOR**
18 **PROMOTION TO HIGHER PERMANENT**
19 **GRADE.**

20 No officer may be promoted to a higher permanent
21 grade on the active list until the officer has passed a satis-
22 factory mental and physical examination in accordance
23 with regulations prescribed by the Secretary.

1 **SEC. 228. POSITIONS OF IMPORTANCE AND RESPONSIBILITY.**
2

3 (a) DESIGNATION OF POSITIONS.—The Secretary
4 may designate positions in the Administration as being po-
5 sitions of importance and responsibility for which it is ap-
6 propriate that officers of the Administration, if serving in
7 those positions, serve in the grade of vice admiral, rear
8 admiral, or rear admiral (lower half), as designated by the
9 Secretary for each position.

10 (b) ASSIGNMENT OF OFFICERS TO DESIGNATED PO-
11 SITIONS.—The Secretary may assign officers to positions
12 designated under subsection (a).

13 (c) DIRECTOR OF NOAA CORPS AND OFFICE OF MA-
14 RINE AND AVIATION OPERATIONS.—The Secretary shall
15 designate one position under this section as responsible
16 for oversight of the vessel and aircraft fleets and for the
17 administration of the commissioned officer corps. That po-
18 sition shall be filled by an officer on the lineal list serving
19 in or above the grade of rear admiral (lower half). For
20 the specific purpose of administering the commissioned of-
21 ficer corps, that position shall carry the title of Director
22 of the National Oceanic and Atmospheric Administration
23 Commissioned Officer Corps. For the specific purpose of
24 administering the vessel and aircraft fleets, that position
25 shall carry the title of Director of the Office of Marine
26 and Aviation Operations.

1 (d) GRADE.—

2 (1) TEMPORARY APPOINTMENT TO GRADE DES-
3 IGNATED FOR POSITION.—An officer assigned to a
4 position under this section while so serving has the
5 grade designated for that position, if appointed to
6 that grade by the President, by and with the advice
7 and consent of the Senate.

8 (2) REVERSION TO PERMANENT GRADE.—An
9 officer who has served in a grade above captain,
10 upon termination of the officer's assignment to the
11 position for which that appointment was made, shall,
12 unless appointed or assigned to another position for
13 which a higher grade is designated, revert to the
14 grade and number the officer would have occupied
15 but for serving in a grade above that of captain. In
16 such a case, the officer shall be an extra number in
17 that grade.

18 (e) NUMBER OF OFFICERS APPOINTED.—

19 (1) OVERALL LIMIT.—The total number of offi-
20 cers serving on active duty at any one time in the
21 grade of rear admiral (lower half) or above may not
22 exceed four.

23 (2) LIMIT BY GRADE.—The number of officers
24 serving on active duty under appointments under
25 this section may not exceed—

1 (A) one in the grade of vice admiral;

2 (B) two in the grade of rear admiral; and

3 (C) two in the grade of rear admiral (lower
4 half).

5 (f) PAY AND ALLOWANCES.—An officer appointed to
6 a grade under this section, while serving in that grade,
7 shall have the pay and allowances of the grade to which
8 appointed.

9 (g) EFFECT OF APPOINTMENT.—An appointment of
10 an officer under this section—

11 (1) does not vacate the permanent grade held
12 by the officer; and

13 (2) creates a vacancy on the active list.

14 **SEC. 229. TEMPORARY APPOINTMENTS AND PROMOTIONS**
15 **GENERALLY.**

16 (a) ENSIGN.—Temporary appointments in the grade
17 of ensign may be made by the President alone. Each such
18 temporary appointment terminates at the close of the next
19 regular session of the Congress unless the Senate sooner
20 gives its advice and consent to the appointment.

21 (b) LIEUTENANT (JUNIOR GRADE).—Officers in the
22 permanent grade of ensign may be temporarily promoted
23 to and appointed in the grade of lieutenant (junior grade)
24 by the President alone whenever vacancies exist in higher
25 grades.

1 (c) ANY ONE GRADE.—When determined by the Sec-
2 retary to be in the best interest of the service, officers
3 in any permanent grade may be temporarily promoted one
4 grade by the President alone. Any such temporary pro-
5 motion terminates upon the transfer of the officer to a
6 new assignment.

7 **SEC. 230. TEMPORARY APPOINTMENT OR ADVANCEMENT**
8 **OF COMMISSIONED OFFICERS IN TIME OF**
9 **WAR OR NATIONAL EMERGENCY.**

10 (a) IN GENERAL.—Officers of the Administration
11 shall be subject in like manner and to the same extent
12 as personnel of the Navy to all laws authorizing temporary
13 appointment or advancement of commissioned officers in
14 time of war or national emergency.

15 (b) LIMITATIONS.—Subsection (a) shall be applied
16 subject to the following limitations:

17 (1) A commissioned officer in the service of a
18 military department under section 251 may, upon
19 the recommendation of the Secretary of the military
20 department concerned, be temporarily promoted to a
21 higher rank or grade.

22 (2) A commissioned officer in the service of the
23 Administration may be temporarily promoted to fill
24 vacancies in ranks and grades caused by the transfer

1 of commissioned officers to the service and jurisdic-
2 tion of a military department under section 251.

3 (3) Temporary appointments may be made in
4 all grades to which original appointments in the Ad-
5 ministration are authorized, except that the number
6 of officers holding temporary appointments may not
7 exceed the number of officers transferred to a mili-
8 tary department under section 251.

9 **SEC. 231. PAY AND ALLOWANCES; DATE OF ACCEPTANCE**
10 **OF PROMOTION.**

11 (a) ACCEPTANCE AND DATE OF PROMOTION.—An of-
12 ficer of the commissioned corps who is promoted to a high-
13 er grade—

14 (1) is deemed for all purposes to have accepted
15 the promotion upon the date the promotion is made
16 by the President, unless the officer expressly declines
17 the promotion; and

18 (2) shall receive the pay and allowances of the
19 higher grade from that date unless the officer is en-
20 titled under another provision of law to receive the
21 pay and allowances of the higher grade from an ear-
22 lier date.

23 (b) OATH OF OFFICE.—An officer who subscribed to
24 the oath of office required by section 3331 of title 5,
25 United States Code, shall not be required to renew such

1 oath or to take a new oath upon promotion to a higher
 2 grade, if the service of the officer after the taking of such
 3 oath is continuous.

4 **SEC. 232. SERVICE CREDIT AS DECK OFFICER OR JUNIOR**
 5 **ENGINEER FOR PROMOTION PURPOSES.**

6 For purposes of promotion, there shall be counted in
 7 addition to active commissioned service, service as deck
 8 officer or junior engineer.

9 **SEC. 233. SUSPENSION DURING WAR OR EMERGENCY.**

10 In time of emergency declared by the President or
 11 by the Congress, and in time of war, the President is au-
 12 thorized, in the President's discretion, to suspend the op-
 13 eration of all or any part of the provisions of law per-
 14 taining to promotion of commissioned officers of the Ad-
 15 ministration.

16 **Subtitle C—Separation and**
 17 **Retirement of Officers**

18 **SEC. 241. INVOLUNTARY RETIREMENT OR SEPARATION.**

19 (a) TRANSFER OF OFFICERS TO RETIRED LIST; SEP-
 20 ARATION FROM SERVICE.—As recommended by a per-
 21 sonnel board convened under section 222—

22 (1) an officer in the permanent grade of captain
 23 or commander may be transferred to the retired list;
 24 and

1 (2) an officer in the permanent grade of lieu-
2 tenant commander, lieutenant, or lieutenant (junior
3 grade) who is not qualified for retirement may be
4 separated from the service.

5 (b) COMPUTATIONS.—In any fiscal year, the total
6 number of officers selected for retirement or separation
7 under subsection (a) plus the number of officers retired
8 for age may not exceed the whole number nearest 4 per-
9 cent of the total number of officers authorized to be on
10 the active list, except as otherwise provided by law.

11 (c) EFFECTIVE DATE OF RETIREMENTS AND SEPA-
12 RATIONS.—A retirement or separation under subsection
13 (a) shall take effect on the first day of the sixth month
14 beginning after the date on which the Secretary approves
15 the retirement or separation, except that if the officer con-
16 cerned requests an earlier retirement or separation date,
17 the date shall be as determined by the Secretary.

18 **SEC. 242. SEPARATION PAY.**

19 (a) AUTHORIZATION OF PAYMENT.—An officer who
20 is separated under section 241(a)(2) and who has com-
21 pleted more than three years of continuous active service
22 immediately before that separation is entitled to separa-
23 tion pay computed under subsection (b) unless the Sec-
24 retary determines that the conditions under which the offi-
25 cer is separated do not warrant payment of that pay.

1 (b) AMOUNT OF SEPARATION PAY.—

2 (1) SIX OR MORE YEARS.—In the case of an of-
3 ficer who has completed six or more years of contin-
4 uous active service immediately before that separa-
5 tion, the amount of separation pay to be paid to the
6 officer under this section is 10 percent of the prod-
7 uct of—

8 (A) the years of active service creditable to
9 the officer; and

10 (B) 12 times the monthly basic pay to
11 which the officer was entitled at the time of
12 separation.

13 (2) THREE TO SIX YEARS.—In the case of an
14 officer who has completed three or more but fewer
15 than six years of continuous active service imme-
16 diately before that separation, the amount of separa-
17 tion pay to be paid to the officer under this section
18 is one-half of the amount computed under paragraph
19 (1).

20 (c) OTHER CONDITIONS, REQUIREMENTS, AND AD-
21 MINISTRATIVE PROVISIONS.—The provisions of sub-
22 sections (f), (g), and (h) of section 1174 of title 10, United
23 States Code, shall apply to separation pay under this sec-
24 tion in the same manner as such provisions apply to sepa-
25 ration pay under that section.

1 **SEC. 243. MANDATORY RETIREMENT FOR AGE.**

2 (a) OFFICERS BELOW GRADE OF REAR ADMIRAL
3 (LOWER HALF).—Unless retired or separated earlier,
4 each officer on the lineal list of the commissioned corps
5 who is serving in a grade below the grade of rear admiral
6 (lower half) shall be retired on the first day of the month
7 following the month in which the officer becomes 62 years
8 of age.

9 (b) FLAG OFFICERS.—Notwithstanding subsection
10 (a), the President may defer the retirement of an officer
11 serving in a position that carries a grade above captain
12 for such period as the President considers advisable, but
13 such a deferment may not extend beyond the first day of
14 the month following the month in which the officer be-
15 comes 64 years of age.

16 **SEC. 244. RETIREMENT FOR LENGTH OF SERVICE.**

17 An officer who has completed 20 years of service, of
18 which at least 10 years was service as a commissioned offi-
19 cer, may at any time thereafter, upon application by such
20 officer and in the discretion of the President, be placed
21 on the retired list.

22 **SEC. 245. COMPUTATION OF RETIRED PAY.**

23 (a) OFFICERS FIRST BECOMING MEMBERS BEFORE
24 SEPTEMBER 8, 1980.—Each officer on the retired list who
25 first became a member of a uniformed service before Sep-

1 tember 8, 1980, shall receive retired pay at the rate deter-
2 mined by multiplying—

3 (1) the retired pay base determined under sec-
4 tion 1406(g) of title 10, United States Code; by

5 (2) 2½ percent of the number of years of serv-
6 ice that may be credited to the officer under section
7 1405 of such title as if the officer's service were
8 service as a member of the Armed Forces.

9 The retired pay so computed may not exceed 75 percent
10 of the retired pay base.

11 (b) OFFICERS FIRST BECOMING MEMBERS ON OR
12 AFTER SEPTEMBER 8, 1980.—Each officer on the retired
13 list who first became a member of a uniformed service on
14 or after September 8, 1980, shall receive retired pay at
15 the rate determined by multiplying—

16 (1) the retired pay base determined under sec-
17 tion 1407 of title 10, United States Code; by

18 (2) the retired pay multiplier determined under
19 section 1409 of such title for the number of years
20 of service that may be credited to the officer under
21 section 1405 of such title as if the officer's service
22 were service as a member of the Armed Forces.

23 (c) TREATMENT OF FULL AND FRACTIONAL PARTS
24 OF MONTHS IN COMPUTING YEARS OF SERVICE.—

1 (1) IN GENERAL.—In computing the number of
2 years of service of an officer for the purposes of sub-
3 section (a)—

4 (A) each full month of service that is in
5 addition to the number of full years of service
6 creditable to the officer shall be credited as $\frac{1}{12}$
7 of a year; and

8 (B) any remaining fractional part of a
9 month shall be disregarded.

10 (2) ROUNDING.—Retired pay computed under
11 this section, if not a multiple of \$1, shall be rounded
12 to the next lower multiple of \$1.

13 **SEC. 246. RETIRED GRADE AND RETIRED PAY.**

14 Each officer retired pursuant to law shall be placed
15 on the retired list with the highest grade satisfactorily held
16 by that officer while on active duty including active duty
17 pursuant to recall, under permanent or temporary ap-
18 pointment, and shall receive retired pay based on such
19 highest grade, if—

20 (1) the officer's performance of duty in such
21 highest grade has been satisfactory, as determined
22 by the Secretary of the department or departments
23 under whose jurisdiction the officer served; and

24 (2) unless retired for disability, the officer's
25 length of service in such highest grade is no less

1 than that required by the Secretary of officers retir-
2 ing under permanent appointment in that grade.

3 **SEC. 247. RETIRED RANK AND PAY HELD PURSUANT TO**
4 **OTHER LAWS UNAFFECTED.**

5 Nothing in this subtitle shall prevent an officer from
6 being placed on the retired list with the highest rank and
7 with the highest retired pay to which the officer is entitled
8 under any other provision of law.

9 **SEC. 248. CONTINUATION ON ACTIVE DUTY; DEFERRAL OF**
10 **RETIREMENT.**

11 The provisions of subchapter IV of chapter 36 of title
12 10, United States Code, relating to continuation on active
13 duty and deferral of retirement shall apply to commis-
14 sioned officers of the Administration.

15 **SEC. 249. RECALL TO ACTIVE DUTY.**

16 The provisions of chapter 39 of title 10, United
17 States Code, relating to recall of retired officers to active
18 duty, including the limitations on such recalls, shall apply
19 to commissioned officers of the Administration.

20 **Subtitle D—Service of Officers**
21 **With the Military Departments**

22 **SEC. 251. COOPERATION WITH AND TRANSFER TO MILI-**
23 **TARY DEPARTMENTS.**

24 (a) TRANSFERS OF RESOURCES AND OFFICERS DUR-
25 ING NATIONAL EMERGENCY.—

1 (1) TRANSFERS AUTHORIZED.—The President
2 may, whenever in the judgment of the President a
3 sufficient national emergency exists, transfer to the
4 service and jurisdiction of a military department
5 such vessels, equipment, stations, and officers of the
6 Administration as the President considers to be in
7 the best interest of the country.

8 (2) RESPONSIBILITY FOR FUNDING OF TRANS-
9 FERRED RESOURCES AND OFFICERS.—After any
10 such transfer all expenses connected therewith shall
11 be defrayed out of the appropriations for the depart-
12 ment to which the transfer is made.

13 (3) RETURN OF TRANSFERRED RESOURCES
14 AND OFFICERS.—Such transferred vessels, equip-
15 ment, stations, and officers shall be returned to the
16 Administration when the national emergency ceases,
17 in the opinion of the President.

18 (4) RULE OF CONSTRUCTION.—Nothing in this
19 section shall be construed as transferring the Ad-
20 ministration or any of its functions from the Depart-
21 ment of Commerce except in time of national emer-
22 gency and to the extent provided in this section.

23 (b) LIMITATION ON TRANSFER OF OFFICERS.—This
24 section does not authorize the transfer of an officer of the
25 Administration to a military department if the accession

1 or retention of that officer in that military department is
2 otherwise not authorized by law.

3 (c) STATUS OF TRANSFERRED OFFICERS.—An offi-
4 cer of the Administration transferred under this section,
5 shall, while under the jurisdiction of a military depart-
6 ment, have proper military status and shall be subject to
7 the laws, regulations, and orders for the government of
8 the Army, Navy, or Air Force, as the case may be, insofar
9 as the same may be applicable to persons whose retention
10 permanently in the military service of the United States
11 is not contemplated by law.

12 **SEC. 252. RELATIVE RANK OF OFFICERS WHEN SERVING**
13 **WITH ARMY, NAVY, OR AIR FORCE.**

14 When serving with the Army, Navy, or Air Force, an
15 officer of the Administration shall rank with and after of-
16 ficers of corresponding grade in the Army, Navy, or Air
17 Force of the same length of service in grade. Nothing in
18 this subtitle shall be construed to affect or alter an offi-
19 cer's rates of pay and allowances when not assigned to
20 military duty.

21 **SEC. 253. RULES AND REGULATIONS WHEN COOPERATING**
22 **WITH MILITARY DEPARTMENTS.**

23 (a) JOINT REGULATIONS.—The Secretary of Defense
24 and the Secretary of Commerce shall jointly prescribe
25 regulations—

1 (1) governing the duties to be performed by the
2 Administration in time of war; and

3 (2) providing for the cooperation of the Admin-
4 istration with the military departments in time of
5 peace in preparation for its duties in time of war.

6 (b) APPROVAL.—Regulations under subsection (a)
7 shall not be effective unless approved by each of those Sec-
8 retaries.

9 (c) COMMUNICATIONS.—Regulations under sub-
10 section (a) may provide procedures for making reports and
11 communications between a military department and the
12 Administration.

13 **Subtitle E—Rights and Benefits**

14 **SEC. 261. APPLICABILITY OF CERTAIN PROVISIONS OF** 15 **TITLE 10, UNITED STATES CODE.**

16 (a) PROVISIONS MADE APPLICABLE TO THE
17 CORPS.—The rules of law that apply to the Armed Forces
18 under the following provisions of title 10, United States
19 Code, as those provisions are in effect from time to time,
20 apply also to the commissioned officer corps of the Admin-
21 istration:

22 (1) Chapter 40, relating to leave.

23 (2) Section 533(b), relating to constructive
24 service.

1 (3) Section 716, relating to transfers between
2 the armed forces and to and from National Oceanic
3 and Atmospheric Administration.

4 (4) Section 1035, relating to deposits of sav-
5 ings.

6 (5) Section 1036, relating to transportation and
7 travel allowances for escorts for dependents of mem-
8 bers.

9 (6) Section 1052, relating to reimbursement for
10 adoption expenses.

11 (7) Section 1174a, relating to special separation
12 benefits (except that benefits under subsection
13 (b)(2)(B) of such section are subject to the avail-
14 ability of appropriations for such purpose and are
15 provided at the discretion of the Secretary of Com-
16 merce).

17 (8) Chapter 61, relating to retirement or sepa-
18 ration for physical disability.

19 (9) Chapter 69, relating to retired grade, except
20 sections 1370, 1375, and 1376.

21 (10) Chapter 71, relating to computation of re-
22 tired pay.

23 (11) Chapter 73, relating to annuities based on
24 retired or retainer pay.

1 (12) Subchapter II of chapter 75, relating to
2 death benefits.

3 (13) Section 2634, relating to transportation of
4 motor vehicles for members on permanent change of
5 station.

6 (14) Sections 2731 and 2735, relating to prop-
7 erty loss incident to service.

8 (15) Section 2771, relating to final settlement
9 of accounts of deceased members.

10 (16) Such other provisions of subtitle A of that
11 title as may be adopted for applicability to the com-
12 missioned officer corps of the National Oceanic and
13 Atmospheric Administration by any other provision
14 of law.

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

1 **SEC. 262. ELIGIBILITY FOR VETERANS BENEFITS AND**
2 **OTHER RIGHTS, PRIVILEGES, IMMUNITIES,**
3 **AND BENEFITS UNDER CERTAIN PROVISIONS**
4 **OF LAW.**

5 (a) IN GENERAL.—Active service of officers of the
6 Administration shall be deemed to be active military serv-
7 ice for the purposes of all rights, privileges, immunities,
8 and benefits under the following:

9 (1) Laws administered by the Secretary of Vet-
10 erans Affairs.

11 (2) The Soldiers' and Sailors' Civil Relief Act
12 of 1940 (50 App. U.S.C. 501 et seq.).

13 (3) Section 210 of the Social Security Act (42
14 U.S.C. 410), as in effect before September 1, 1950.

15 (b) EXERCISE OF AUTHORITY.—In the administra-
16 tion of the laws and regulations referred to in subsection
17 (a), with respect to the Administration, the authority vest-
18 ed in the Secretary of Defense and the Secretaries of the
19 military departments and their respective departments
20 shall be exercised by the Secretary of Commerce.

21 **SEC. 263. MEDICAL AND DENTAL CARE.**

22 The Secretary may provide medical and dental care,
23 including care in private facilities, for personnel of the Ad-
24 ministration entitled to that care by law or regulation.

1 **SEC. 264. COMMISSARY PRIVILEGES.**

2 (a) EXTENSION OF PRIVILEGE.—Commissioned offi-
3 cers, ships' officers, and members of crews of vessels of
4 the Administration shall be permitted to purchase com-
5 missary and quartermaster supplies as far as available
6 from the Armed Forces at the prices charged officers and
7 enlisted members of the Armed Forces.

8 (b) SALES OF RATIONS, STORES, UNIFORMS, AND
9 RELATED EQUIPMENT.—The Secretary may purchase ra-
10 tion supplies for messes, stores, uniforms, accouterments,
11 and related equipment for sale aboard ship and shore sta-
12 tions of the Administration to members of the uniformed
13 services and to personnel assigned to such ships or shore
14 stations. Sales shall be in accordance with regulations pre-
15 scribed by the Secretary, and proceeds therefrom shall, as
16 far as is practicable, fully reimburse the appropriations
17 charged without regard to fiscal year.

18 (c) SURVIVING SPOUSES' RIGHTS.—Rights extended
19 to members of the uniformed services in this section are
20 extended to their surviving spouses and to such others as
21 are designated by the Secretary concerned.

22 **SEC. 265. AUTHORITY TO USE APPROPRIATED FUNDS FOR**
23 **TRANSPORTATION AND REIMBURSEMENT OF**
24 **CERTAIN ITEMS.**

25 (a) TRANSPORTATION OF EFFECTS OF DECEASED
26 OFFICERS.—In the case of an officer who dies on active

1 duty, the Secretary may provide, from appropriations
2 made available to the Administration, transportation (in-
3 cluding packing, unpacking, crating, and uncrating) of
4 personal and household effects of that officer to the offi-
5 cial residence of record of that officer. However, upon ap-
6 plication by the dependents of such an officer, such trans-
7 portation may be provided to such other location as may
8 be determined by the Secretary.

9 (b) REIMBURSEMENT FOR SUPPLIES FURNISHED BY
10 OFFICERS TO DISTRESSED AND SHIPWRECKED PER-
11 SONS.—Under regulations prescribed by the Secretary, ap-
12 propriations made available to the Administration may be
13 used to reimburse an officer for food, clothing, medicines,
14 and other supplies furnished by the officer—

15 (1) for the temporary relief of distressed per-
16 sons in remote localities; or

17 (2) to shipwrecked persons who are temporarily
18 provided for by the officer.

19 **SEC. 266. PRESENTATION OF UNITED STATES FLAG UPON**
20 **RETIREMENT.**

21 (a) PRESENTATION OF FLAG UPON RETIREMENT.—
22 Upon the release of a commissioned officer from active
23 commissioned service for retirement, the Secretary shall
24 present a United States flag to the officer.

1 (b) MULTIPLE PRESENTATIONS NOT AUTHOR-
 2 IZED.—An officer is not eligible for presentation of a flag
 3 under subsection (a) if the officer has previously been pre-
 4 sented a flag under this section or any other provision of
 5 law providing for the presentation of a United States flag
 6 incident to release from active service for retirement.

7 (c) NO COST TO RECIPIENT.—The presentation of a
 8 flag under this section shall be at no cost to the recipient.

9 **Subtitle F—Repeals and** 10 **Conforming Amendments**

11 **SEC. 271. REPEALS.**

12 The following provisions of law are repealed:

13 (1) The Coast and Geodetic Survey Commis-
 14 sioned Officers' Act of 1948 (33 U.S.C. 853a et
 15 seq.).

16 (2) Section 3 of the Act of August 10, 1956
 17 (33 U.S.C. 857a).

18 (3) Public Law 91–621 (33 U.S.C. 857–1 et
 19 seq.).

20 (4) Section 16 of the Act of May 22, 1917 (33
 21 U.S.C. 854, 855, 856, 857, and 858).

22 (5) Section 1 of the Act of July 22, 1947 (33
 23 U.S.C. 874).

24 (6) Section 11 of the Act entitled “An Act to
 25 increase the efficiency of the commissioned and en-

1 listed personnel of the Army, Navy, Marine Corps,
2 Coast Guard, Coast and Geodetic Survey, and Public
3 Health Service”, enacted May 18, 1920 (33 U.S.C.
4 864).

5 (7) Section 636(a)(17) of the Foreign Assist-
6 ance Act of 1961 (22 U.S.C. 2396(a)(17)).

7 **SEC. 272. CONFORMING AMENDMENTS.**

8 (a) TITLE 10, UNITED STATES CODE.—Section
9 1406(g) of title 10, United States Code, is amended by
10 striking “section 16 of the Coast and Geodetic Survey
11 Commissioned Officers’ Act of 1948 (33 U.S.C. 853o)”
12 and inserting “section 305 of the National Oceanic and
13 Atmospheric Administration Commissioned Officers Act of
14 2002”.

15 (b) PUBLIC LAW 104–106.—Section 566(c) of the
16 National Defense Authorization Act for Fiscal Year 1996
17 (Public Law 104–106; 110 Stat. 328; 10 U.S.C. 1293
18 note) is amended by striking “the Coast and Geodetic Sur-
19 vey Commissioned Officers’ Act of 1948” and inserting
20 “the National Oceanic and Atmospheric Administration
21 Commissioned Officer Corps Act of 2002”.

1 **TITLE III—VARIOUS FISHERIES**
2 **CONSERVATION REAUTHOR-**
3 **IZATIONS**

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Fisheries Conservation
6 Act of 2002”.

7 **SEC. 302. REAUTHORIZATION AND AMENDMENT OF THE**
8 **INTERJURISDICTIONAL FISHERIES ACT OF**
9 **1986.**

10 (a) REAUTHORIZATION.—Section 308 of the Inter-
11 jurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is
12 amended—

13 (1) by amending subsection (a) to read as fol-
14 lows:

15 “(a) GENERAL APPROPRIATIONS.—There are author-
16 ized to be appropriated to the Department of Commerce
17 for apportionment to carry out the purposes of this title—

18 “(1) \$5,400,000 for each of fiscal years 2003
19 and 2004; and

20 “(2) \$5,900,000 for each of fiscal years 2005
21 and 2006.”; and

22 (2) in subsection (c) by striking “\$700,000 for
23 fiscal year 1997, and \$750,000 for each of the fiscal
24 years 1998, 1999, and 2000” and inserting
25 “\$850,000 for each of fiscal years 2003 and 2004,

1 and \$900,000 for each of fiscal years 2005 and
2 2006”.

3 (b) PURPOSES OF THE INTERJURISDICTIONAL FISH-
4 ERIES ACT OF 1986.—Section 302 of the Interjurisdic-
5 tional Fisheries Act of 1986 (16 U.S.C. 4101) is amended
6 by striking “and” after the semicolon at the end of para-
7 graph (1), striking the period at the end of paragraph (2)
8 and inserting “; and”, and adding at the end the following:

9 “(3) to promote and encourage research in
10 preparation for the implementation of the use of eco-
11 systems and interspecies approaches to the conserva-
12 tion and management of interjurisdictional fishery
13 resources throughout their range.”.

14 **SEC. 303. REAUTHORIZATION AND AMENDMENT OF THE**
15 **ANADROMOUS FISH CONSERVATION ACT.**

16 (a) REAUTHORIZATION.—Section 4 of the Anad-
17 romous Fish Conservation Act (16 U.S.C. 757d) is
18 amended to read as follows:

19 “AUTHORIZATION OF APPROPRIATIONS

20 “SEC. 4. (a)(1) There are authorized to be appro-
21 priated to carry out the purposes of this Act not to exceed
22 the following sums:

23 “(A) \$4,750,000 for each of fiscal years 2003
24 and 2004; and

25 “(B) \$5,000,000 for each of fiscal years 2005
26 and 2006.

1 “(2) Sums appropriated under this subsection are au-
2 thorized to remain available until expended.

3 “(b) Not more than \$625,000 of the funds appro-
4 priated under this section in any one fiscal year shall be
5 obligated in any one State.”.

6 (b) RESEARCH ON AND USE OF ECOSYSTEMS AND
7 INTERSPECIES APPROACHES TO CONSERVATION AND
8 MANAGEMENT.—The first section of the Anadromous
9 Fish Conservation Act (16 U.S.C. 757a) is amended in
10 subsection (b) by inserting “(1)” after “(b)”, and by add-
11 ing at the end the following:

12 “(2) In carrying out responsibilities under this sec-
13 tion, the Secretary shall conduct, promote, and encourage
14 research in preparation for the implementation of the use
15 of ecosystems and interspecies approaches to the conserva-
16 tion and management of anadromous and Great Lakes
17 fishery resources.”.

18 **SEC. 304. REAUTHORIZATION OF THE ATLANTIC TUNAS**
19 **CONVENTION ACT OF 1975.**

20 Section 10 of the Atlantic Tunas Convention Act of
21 1975 (16 U.S.C. 971h) is amended to read as follows:

22 “AUTHORIZATION OF APPROPRIATIONS

23 “SEC. 10. (a) IN GENERAL.—There are authorized
24 to be appropriated to carry out this Act, including use for
25 payment of the United States share of the joint expenses

1 of the Commission as provided in Article X of the Conven-
 2 tion, the following sums:

3 “(1) For each of fiscal years 2003 and 2004,
 4 \$5,480,000.

5 “(2) For each of fiscal years 2005 and 2006,
 6 \$5,495,000.

7 “(b) ALLOCATION.—Of amounts available under this
 8 section for each fiscal year—

9 “(1) \$150,000 are authorized for the advisory
 10 committee established under section 4 and the spe-
 11 cies working groups established under section 4A;
 12 and

13 “(2) \$4,240,000 are authorized for research ac-
 14 tivities under this Act and the Act of September 4,
 15 1980 (16 U.S.C. 971i).”.

16 **SEC. 305. REAUTHORIZATION OF THE NORTHWEST ATLAN-**
 17 **TIC FISHERIES CONVENTION ACT OF 1995.**

18 Section 211 of the Northwest Atlantic Fisheries Con-
 19 vention Act of 1995 (16 U.S.C. 5610) is amended by strik-
 20 ing “2001” and inserting “2006”.

21 **SEC. 306. EXTENSION OF DEADLINE.**

22 (a) EXTENSION OF DEADLINE.—The Oceans Act of
 23 2000 (Public Law 106–256) is amended—

24 (1) in section 3(i) (114 Stat. 648) by striking
 25 “30 days” and inserting “90 days”; and

1 (2) in section 4(a) (114 Stat. 648; 33 U.S.C.
2 857–19 note) by striking “120 days” and inserting
3 “90 days”.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
5 3(j) of such Act (114 Stat. 648) is amended by striking
6 “\$6,000,000” and inserting “\$8,500,000”.

7 (c) TECHNICAL CORRECTIONS.—Section 3(e) of such
8 Act (114 Stat. 646) is amended—

9 (1) in paragraph (1) by striking the colon in
10 the third sentence and inserting a period;

11 (2) by inserting immediately after such period
12 the following:

13 “(2) NOTICE; MINUTES; PUBLIC AVAILABILITY
14 OF DOCUMENTS.—”; and

15 (3) by redesignating the subsequent paragraphs
16 in order as paragraphs (3) and (4), respectively.

17 **TITLE IV—MISCELLANEOUS**

18 **SEC. 401. CHESAPEAKE BAY OFFICE.**

19 (a) REAUTHORIZATION OF OFFICE.—Section 307 of
20 the National Oceanic and Atmospheric Administration Au-
21 thorization Act of 1992 (15 U.S.C. 1511d) is amended
22 to read as follows:

23 **“SEC. 307. CHESAPEAKE BAY OFFICE.**

24 “(a) ESTABLISHMENT.—(1) The Secretary of Com-
25 merce shall establish, within the National Oceanic and At-

1 mospheric Administration, an office to be known as the
2 Chesapeake Bay Office (in this section referred to as the
3 ‘Office’).

4 “(2) The Office shall be headed by a Director who
5 shall be appointed by the Secretary of Commerce, in con-
6 sultation with the Chesapeake Executive Council. Any in-
7 dividual appointed as Director shall have knowledge and
8 experience in research or resource management efforts in
9 the Chesapeake Bay.

10 “(3) The Director may appoint such additional per-
11 sonnel for the Office as the Director determines necessary
12 to carry out this section.

13 “(b) FUNCTIONS.—The Office, in consultation with
14 the Chesapeake Executive Council, shall—

15 “(1) provide technical assistance to the Admin-
16 istrator, to other Federal departments and agencies,
17 and to State and local government agencies in—

18 “(A) assessing the processes that shape
19 the Chesapeake Bay system and affect its living
20 resources;

21 “(B) identifying technical and management
22 alternatives for the restoration and protection
23 of living resources and the habitats they depend
24 upon; and

1 “(C) monitoring the implementation and
2 effectiveness of management plans;

3 “(2) develop and implement a strategy for the
4 National Oceanic and Atmospheric Administration
5 that integrates the science, research, monitoring,
6 data collection, regulatory, and management respon-
7 sibilities of the Secretary of Commerce in such a
8 manner as to assist the cooperative, intergovern-
9 mental Chesapeake Bay Program to meet the com-
10 mitments of the Chesapeake Bay Agreement;

11 “(3) coordinate the programs and activities of
12 the various organizations within the National Oce-
13 anic and Atmospheric Administration, the Chesa-
14 peake Bay Regional Sea Grant Programs, and the
15 Chesapeake Bay units of the National Estuarine Re-
16 search Reserve System, including—

17 “(A) programs and activities in—

18 “(i) coastal and estuarine research,
19 monitoring, and assessment;

20 “(ii) fisheries research and stock as-
21 sessments;

22 “(iii) data management;

23 “(iv) remote sensing;

24 “(v) coastal management;

1 “(vi) habitat conservation and restora-
2 tion; and

3 “(vii) atmospheric deposition; and

4 “(B) programs and activities of the Coop-
5 erative Oxford Laboratory of the National
6 Ocean Service with respect to—

7 “(i) nonindigenous species;

8 “(ii) estuarine and marine species pa-
9 thology;

10 “(iii) human pathogens in estuarine
11 and marine environments; and

12 “(iv) ecosystem health;

13 “(4) coordinate the activities of the National
14 Oceanic and Atmospheric Administration with the
15 activities of the Environmental Protection Agency
16 and other Federal, State, and local agencies;

17 “(5) establish an effective mechanism which
18 shall ensure that projects have undergone appro-
19 priate peer review and provide other appropriate
20 means to determine that projects have acceptable
21 scientific and technical merit for the purpose of
22 achieving maximum utilization of available funds
23 and resources to benefit the Chesapeake Bay area;

24 “(6) remain cognizant of ongoing research,
25 monitoring, and management projects and assist in

1 the dissemination of the results and findings of
2 those projects; and

3 “(7) submit a biennial report to the Congress
4 and the Secretary of Commerce with respect to the
5 activities of the Office and on the progress made in
6 protecting and restoring the living resources and
7 habitat of the Chesapeake Bay, which report shall
8 include an action plan consisting of—

9 “(A) a list of recommended research, moni-
10 toring, and data collection activities necessary
11 to continue implementation of the strategy de-
12 scribed in paragraph (2); and

13 “(B) proposals for—

14 “(i) continuing any new National Oce-
15 anic and Atmospheric Administration ac-
16 tivities in the Chesapeake Bay; and

17 “(ii) the integration of those activities
18 with the activities of the partners in the
19 Chesapeake Bay Program to meet the
20 commitments of the Chesapeake 2000
21 agreement and subsequent agreements.

22 “(c) CHESAPEAKE BAY FISHERY AND HABITAT RES-
23 TINATION SMALL WATERSHED GRANTS PROGRAM.—

24 “(1) IN GENERAL.—The Director of the Chesa-
25 peake Bay Office of the National Oceanic and At-

1 mospheric Administration (in this section referred to
2 as the ‘Director’), in cooperation with the Ches-
3 apeake Executive Council, shall carry out a commu-
4 nity-based fishery and habitat restoration small
5 grants and technical assistance program in the
6 Chesapeake Bay watershed.

7 “(2) PROJECTS.—

8 “(A) SUPPORT.—The Director shall make
9 grants under this subsection to pay the Federal
10 share of the cost of projects that are carried
11 out by entities eligible under paragraph (3) for
12 the restoration of fisheries and habitats in the
13 Chesapeake Bay.

14 “(B) FEDERAL SHARE.—The Federal
15 share under subparagraph (A) shall not exceed
16 75 percent.

17 “(C) TYPES OF PROJECTS.—Projects for
18 which grants may be made under this sub-
19 section include—

20 “(i) the improvement of fish passage-
21 ways;

22 “(ii) the creation of natural or artifi-
23 cial reefs or substrata for habitats;

24 “(iii) the restoration of wetland or sea
25 grass;

1 “(iv) the production of oysters for res-
2 toration projects; and

3 “(v) the prevention, identification, and
4 control of nonindigenous species.

5 “(3) ELIGIBLE ENTITIES.—The following enti-
6 ties are eligible to receive grants under this sub-
7 section:

8 “(A) The government of a political subdivi-
9 sion of a State in the Chesapeake Bay water-
10 shed, and the government of the District of Co-
11 lumbia.

12 “(B) An organization in the Chesapeake
13 Bay watershed (such as an educational institu-
14 tion or a community organization)—

15 “(i) that is described in section 501(c)
16 of the Internal Revenue Code of 1986 and
17 is exempt from taxation under section
18 501(a) of that Code; and

19 “(ii) that will administer such grants
20 in coordination with a government referred
21 to in subparagraph (A).

22 “(4) ADDITIONAL REQUIREMENTS.—The Direc-
23 tor may prescribe any additional requirements, in-
24 cluding procedures, that the Director considers nec-

1 essary to carry out the program under this sub-
2 section.

3 “(d) CHESAPEAKE EXECUTIVE COUNCIL.—For pur-
4 poses of this section, ‘Chesapeake Executive Council’
5 means the representatives from the Commonwealth of Vir-
6 ginia, the State of Maryland, the Commonwealth of Penn-
7 sylvania, the Environmental Protection Agency, the Dis-
8 trict of Columbia, and the Chesapeake Bay Commission,
9 who are signatories to the Chesapeake Bay Agreement,
10 and any future signatories to that Agreement.

11 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated to the Department of
13 Commerce for the Chesapeake Bay Office \$6,000,000 for
14 each of fiscal years 2002 through 2006.”.

15 (b) CONFORMING AMENDMENT.—Section 2 of the
16 National Oceanic and Atmospheric Administration Marine
17 Fisheries Program Authorization Act (Public Law 98–
18 210; 97 Stat. 1409) is amended by striking subsection (e).

19 (c) MULTIPLE SPECIES MANAGEMENT STRATEGY.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of enactment of this Act, the Director
22 of the Chesapeake Bay Office of the National Oce-
23 anic and Atmospheric Administration shall begin a
24 5-year study, in cooperation with the scientific com-
25 munity of the Chesapeake Bay, appropriate State

1 and interstate resource management entities, and
2 appropriate Federal agencies—

3 (A) to determine and expand the under-
4 standing of the role and response of living re-
5 sources in the Chesapeake Bay ecosystem; and

6 (B) to develop a multiple species manage-
7 ment strategy for the Chesapeake Bay.

8 (2) REQUIRED ELEMENTS OF STUDY.—In order
9 to improve the understanding necessary for the de-
10 velopment of the strategy under paragraph (1)(B),
11 the study shall—

12 (A) determine the current status and
13 trends of fish and shellfish that live in the
14 Chesapeake Bay and its tributaries and are se-
15 lected for study;

16 (B) evaluate and assess interactions among
17 the fish and shellfish referred to in subpara-
18 graph (A) and other living resources, with par-
19 ticular attention to the impact of changes with-
20 in and among trophic levels; and

21 (C) recommend management actions to op-
22 timize the return of a healthy and balanced eco-
23 system for the Chesapeake Bay.

1 **SEC. 402. CONVEYANCE OF NOAA LABORATORY IN**
2 **TIBURON, CALIFORNIA.**

3 (a) IN GENERAL.—Except as provided in subsection
4 (c), the Secretary of Commerce shall convey to the Board
5 of Trustees of the California State University, by suitable
6 instrument, in accordance with this section, by as soon
7 as practicable, but not later than 180 days after the date
8 of the enactment of this Act, and without consideration,
9 all right, title, and interest of the United States in the
10 balance of the National Oceanic and Atmospheric Admin-
11 istration property known as the Tiburon Laboratory, lo-
12 cated in Tiburon, California, as described in Exhibit A of
13 the notarized, revocable license between the Administra-
14 tion and Romberg Tiburon Center for Environmental
15 Studies at San Francisco State University dated Novem-
16 ber 5, 2001 (license number 01ABF779–N).

17 (b) CONDITIONS.—As a condition of any conveyance
18 by the Secretary under this section the Secretary shall re-
19 quire the following:

20 (1) The property conveyed shall be adminis-
21 tered by the Romberg Tiburon Center for Environ-
22 mental Studies at San Francisco State University
23 and used only for the following purposes:

24 (A) To enhance estuarine scientific re-
25 search and estuary restoration activities within
26 San Francisco Bay.

1 (B) To administer and coordinate manage-
2 ment activities at the San Francisco Bay Na-
3 tional Estuarine Research Reserve.

4 (C) To conduct education and interpreta-
5 tion and outreach activities to enhance public
6 awareness and appreciation of estuary re-
7 sources, and for other purposes.

8 (2) The Board shall—

9 (A) take title to the property as is;

10 (B) assume full responsibility for all facil-
11 ity maintenance and repair, security, fire pre-
12 vention, utilities, signs, and grounds mainte-
13 nance;

14 (C) allow the Secretary to have all nec-
15 essary ingress and egress over the property of
16 the Board to access Department of Commerce
17 building and related facilities, equipment, im-
18 provements, modifications, and alterations; and

19 (D) not erect or allow to be erected any
20 structure or structures or obstruction of what-
21 ever kind that will interfere with the access to
22 or operation of property retained for the United
23 States under subsection (c)(1), unless prior
24 written consent has been provided by the Sec-
25 retary to the Board.

1 (c) RETAINED INTERESTS.—The Secretary shall re-
2 tain for the United States—

3 (1) all right, title, and interest in and to the
4 portion of the property referred to in subsection (a)
5 comprising Building 86, identified as Parcel C on
6 Exhibit A of the license referred to in subsection (a),
7 including all facilities, equipment, fixtures, improve-
8 ments, modifications, or alterations made by the
9 Secretary;

10 (2) rights-of-way and easements that are deter-
11 mined by the Secretary to be reasonable and conven-
12 ient to ensure all necessary ingress, egress, utilities,
13 drainage, and sewage disposal for the property re-
14 tained under paragraph (1), including access to the
15 existing boat launch ramp (or equivalent) and park-
16 ing that is suitable to the Secretary;

17 (3) the exclusive right to install, maintain, re-
18 pair, replace, and remove its facilities, fixtures, and
19 equipment on the retained property, and to author-
20 ize other persons to take any such action;

21 (4) the right to grade, condition, and install
22 drainage facilities, and to seed soil on the retained
23 property, if necessary; and

24 (5) the right to remove all obstructions from
25 the retained property that may constitute a hin-

drance to the establishment and maintenance of the retained property.

(d) EQUIVALENT ALTERNATIVE.—

(1) IN GENERAL.—At any time, either the Secretary or the Board may request of each other to enter into negotiations pursuant to which the Board may convey if appropriate to the United States, in exchange for property conveyed by the United States under subsection (a), another building that is equivalent in function to the property retained under subsection (c) that is acceptable to the Secretary.

(2) LOCATION.—Property conveyed by the Board under this subsection is not required to be located on the property referred to in subsection (a).

(3) COSTS.—If the Secretary and the Board engage in a property exchange under this subsection, all costs for repair, removal, and moving of facilities, equipment, fixtures, improvements, modifications, or alterations, including power, control, and utilities, that are necessary for the exchange—

(A) shall be the responsibility of the Secretary, if the action to seek an equivalent alternative was requested by the Secretary in response to factors unrelated to the activities of

1 the Board or its operatives in the operation of
2 its facilities; or

3 (B) shall be the responsibility of the
4 Board, if the Secretary's request for an equiva-
5 lent alternative was in response to changes or
6 modifications made by the Board or its
7 operatives that adversely affected the Sec-
8 retary's interest in the property retained under
9 subsection (c).

10 (e) ADDITIONAL CONDITIONS.—As conditions of any
11 conveyance under subsection (a)—

12 (1) the Secretary shall require that—

13 (A) the Board remediate, or have remedi-
14 ated, at its sole cost, all hazardous or toxic sub-
15 stance contamination found on the property
16 conveyed under subsection (a), whether known
17 or unknown at the time of the conveyance or
18 later discovered; and

19 (B) the Board of Trustees hold harmless
20 the Secretary for any and all costs, liabilities, or
21 claims by third parties that arise out of any
22 hazardous or toxic substance contamination
23 found on the property conveyed under sub-
24 section (a) that are not directly attributable to
25 the installation, operation, or maintenance of

1 the Secretary's facilities, equipment, fixtures,
2 improvements, modifications, or alterations;

3 (2) the Secretary shall remediate, at the sole
4 cost of the United States, all hazardous or toxic sub-
5 stance contamination on the property retained under
6 subsection (c) that is found to have occurred as a di-
7 rect result of the installation, operation, or mainte-
8 nance of the Secretary's facilities, equipment, fix-
9 tures, improvements, modifications, or alterations;
10 and

11 (3) if the Secretary decides to terminate future
12 occupancy and interest of the property retained
13 under subsection (c), the Secretary shall—

14 (A) provide written notice to the Board at
15 least 60 days prior to the scheduled date when
16 the property will be vacated;

17 (B) remove facilities, equipment, fixtures,
18 improvements, modifications, or alterations and
19 restore the property to as good a condition as
20 existed at the time the property was retained
21 under subsection (c), taking into account ordi-
22 nary wear and tear and exposure to natural ele-
23 ments or phenomena; or

24 (C) surrender all facilities, equipment, fix-
25 tures, improvements, modifications, or alter-

1 ations to the Board in lieu of restoration,
2 whereupon title shall vest in the Board of
3 Trustees, and whereby all obligations of res-
4 toration under this subsection shall be waived,
5 and all interests retained under subsection (c)
6 shall be revoked.

7 (f) REVERSIONARY INTEREST.—

8 (1) IN GENERAL.—All right, title, and interest
9 in and to all property and interests conveyed by the
10 United States under this section shall revert to the
11 United States on the date on which the Board uses
12 any of the property for any purpose other than the
13 purposes described in subsection (b)(1).

14 (2) ADMINISTRATION OF REVERTED PROP-
15 ERTY.—Any property that reverts to the United
16 States under this subsection shall be under the ad-
17 ministrative jurisdiction of the Administrator of
18 General Services.

19 (3) ANNUAL CERTIFICATION.—One year after
20 the date of a conveyance made pursuant to sub-
21 section (a), and annually thereafter, the Board shall
22 certify to the Administrator of General Services or
23 his or her designee that the Board and its designees
24 are in compliance with the conditions of conveyance
25 under subsections (b) and (e).

1 (g) DEFINITIONS.—In this section:

2 (1) BOARD.—The term “Board” means the
3 Board of Trustees of the California State University.

4 (2) CENTER.—The term “Center” means the
5 Romberg Tiburon Center for Environmental Studies
6 at San Francisco State University.

7 (3) SECRETARY.—The term “Secretary” means
8 the Secretary of Commerce.

9 **SEC. 403. EMERGENCY ASSISTANCE FOR SUBSISTENCE**
10 **WHALE HUNTERS.**

11 Notwithstanding any provision of law, the use of a
12 vessel to tow a whale taken in a traditional subsistence
13 whale hunt permitted by Federal law and conducted in wa-
14 ters off the coast of Alaska is authorized, if such towing
15 is performed upon a request for emergency assistance
16 made by a subsistence whale hunting organization for-
17 mally recognized by an agency of the United States Gov-
18 ernment, or made by a member of such an organization,
19 to prevent the loss of a whale.

Passed the House of Representatives November 15
(legislative day, November 14), 2002.

Attest:

Clerk.

107TH CONGRESS
2D SESSION

H. R. 4883

AN ACT

To reauthorize the Hydrographic Services
Improvement Act of 1998, and for other purposes.