

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.

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

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 RESPONSIBILITY.—Officers serving in positions designated under
 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 officer
 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 authorized
 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 subsection:
 22

23 “(b) POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—Officers serving in positions designated under
 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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