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,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2019”.

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

Sec. 1. Short title; table of contents.
Sec. 2. References to National Oceanic and Atmospheric Administration Commissioned 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 Operations.
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.
SEC. 2. REFERENCES TO NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS ACT OF 2002.

Except as otherwise expressly provided, any place in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.).

TITLE I—GENERAL PROVISIONS

SEC. 101. STRENGTH AND DISTRIBUTION IN GRADE.

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

“SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.

“(a) GRADES.—The commissioned grades in the commissioned officer corps of the Administration are the following, in relative rank with officers of the Navy:

“(1) Vice admiral.
“(2) Rear admiral.
“(3) Rear admiral (lower half).
“(4) Captain.
“(5) Commander.
“(6) Lieutenant commander.
“(7) Lieutenant.
“(8) Lieutenant (junior grade).
“(9) Ensign.

“(b) Grade Distribution.—The Secretary shall prescribe, with respect to the distribution on the lineal list in grade, the percentages applicable to the grades set forth in subsection (a).

“(c) Annual Computation of Number in Grade.—

“(1) In general.—Not less frequently than once each year, the Secretary shall determine the number of officers on the lineal list authorized to be serving in each grade.

“(2) Method of determination.—The number in each grade shall be determined by applying the applicable percentage to the total number of such officers serving on active duty on the date the computation is made.

“(3) Fractions.—If a final fraction occurs in computing the authorized number of officers in a grade, the nearest whole number shall be taken. If the fraction is ½, the next higher whole number shall be taken.

“(d) Temporary Increase in Numbers.—The total number of officers authorized by law to be on the lineal list during a fiscal year may be temporarily exceeded
if the average number on that list during that fiscal year does not exceed the authorized number.

“(e) Positions of Importance and Responsibility.—Officers serving in positions designated under section 228(a) and officers recalled from retired status shall not be counted when computing authorized strengths under subsection (c) and shall not count against those strengths.

“(f) Preservation of Grade and Pay.—No officer may be reduced in grade or pay or separated from the commissioned officer corps of the Administration as the result of a computation made to determine the authorized number of officers in the various grades.”.

SEC. 102. RECALLED OFFICERS.

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

(1) by striking “Effective October 1, 2009, the” and inserting “(a) In General.—The”;

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

(3) by adding at the end the following new subsection:

“(b) Positions of Importance and Responsibility.—Officers serving in positions designated under
section 228 and officers recalled from retired status or de-
tailed to an agency other than the Administration—

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

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

SEC. 103. OBLIGATED SERVICE REQUIREMENT.

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

“SEC. 216. OBLIGATED SERVICE REQUIREMENT.

“(a) IN GENERAL.—

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

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

“(b) REPAYMENT FOR FAILURE TO SATISFY RE-
QUIREMENTS.—
“(1) In general.—The Secretary may require an officer who fails to meet the service requirements prescribed under subsection (a)(1) to reimburse the Secretary in an amount that bears the same ratio to the total costs of the training provided to that officer by the Secretary as the unserved portion of active duty bears to the total period of active duty the officer agreed to serve.

“(2) Obligation as debt to United States.—An obligation to reimburse the Secretary under paragraph (1) shall be considered for all purposes as a debt owed to the United States.

“(3) Discharge in bankruptcy.—A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (a)(2) does not discharge the individual signing the agreement from a debt arising under such agreement.

“(c) Waiver or suspension of compliance.—The Secretary may waive the service obligation of an officer who—

“(1) becomes unqualified to serve on active duty in the commissioned officer corps of the Administration because of a circumstance not within the control of such officer; or
“(2) is—

“(A) not physically qualified for appointment; and

“(B) determined to be unqualified for service in the commissioned officer corps of the Administration because of a physical or medical condition that was not the result of the officer’s own misconduct or grossly negligent conduct.”.

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

“Sec. 216. Obligated service requirement.”.

SEC. 104. TRAINING AND PHYSICAL FITNESS.

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

“SEC. 217. TRAINING AND PHYSICAL FITNESS.

“(a) TRAINING.—The Secretary may take such measures as may be necessary to ensure that officers are prepared to carry out their duties in the commissioned officer corps of the Administration and proficient in the skills necessary to carry out such duties. Such measures may include the following:
“(1) Carrying out training programs and correspondence courses, including establishing and operating a basic officer training program to provide initial indoctrination and maritime vocational training for officer candidates as well as refresher training, mid-career training, aviation training, and such other training as the Secretary considers necessary for officer development and proficiency.

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

“(3) Acquiring such equipment as may be necessary for training and instructional purposes.

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

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

“Sec. 217. Training and physical fitness.”.
SECT. 105. RECRUITING MATERIALS.

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

“SEC. 218. USE OF RECRUITING MATERIALS FOR PUBLIC RELATIONS.

“The Secretary may use for public relations purposes of the Department of Commerce any advertising materials developed for use for recruitment and retention of personnel for the commissioned officer corps of the Administration.”.

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

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

SECT. 106. TECHNICAL CORRECTION.

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

TITLE II—PARITY AND RECRUITMENT

SECT. 201. EDUCATION LOANS.

(a) In General.—Subtitle E (33 U.S.C. 3071 et seq.) is amended by adding at the end the following:
“SEC. 267. EDUCATION LOAN REPAYMENT PROGRAM.

“(a) Authority To Repay Education Loans.—

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

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

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

“(b) Eligible Persons.—To be eligible to obtain
a loan repayment under this section, a person must—

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

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

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

“(c) Academic and Professional Requirements.—One of the following academic requirements
must be satisfied for purposes of determining the eli-
bility of an individual for a loan repayment under this sec-

“(1) The person is fully qualified in a profes-

“(2) The person is enrolled as a full-time stu-

“(d) LOAN REPAYMENTS.—

“(1) IN GENERAL.—Subject to the limits estab-

“(2) LIMITATION ON AMOUNT.—For each year

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

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

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

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

“(3) PERSONS ON ACTIVE DUTY BEFORE ENTERING INTO AGREEMENT.—The active duty service obligation of persons on active duty before entering into the agreement shall be served after the conclusion of any other obligation incurred under the agreement.

“(f) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—

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

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

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

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

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

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

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

SEC. 202. INTEREST PAYMENTS.

(a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et seq.), as amended by section 201(a) of this Act, is further amended by adding at the end the following:
“SEC. 268. INTEREST PAYMENT PROGRAM.

“(a) AUTHORITY.—The Secretary may pay the interest and any special allowances that accrue on one or more student loans of an eligible officer, in accordance with this section.

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

“(1) is serving on active duty;

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

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

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

“(c) STUDENT LOANS.—The authority to make payments under subsection (a) may be exercised with respect to the following loans:

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

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

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

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

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

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

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

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

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

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

“(g) SPECIAL ALLOWANCE DEFINED.—In this sec-

tion, the term ‘special allowance’ means a special allow-

ance that is payable under section 438 of the Higher Edu-

cation Act of 1965 (20 U.S.C. 1087–1).”.

(b) CONFORMING AMENDMENTS.—

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

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

(B) in paragraph (1)—

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

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

(2) Sections 455(l) and 464(j) of the Higher
Education Act of 1965 (20 U.S.C. 1087e(l) and
1087dd(j)) are each amended—
(A) by striking the subsection heading and inserting “ARMED FORCES AND NOAA COMMISSIONED OFFICER CORPS STUDENT LOAN INTEREST PAYMENT PROGRAMS”; and

(B) in paragraph (1)—

(i) by inserting “or section 268 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002” after “Code,”; and

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

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

“Sec. 268. Interest payment program.”.

SEC. 203. STUDENT PRE-COMMISSIONING PROGRAM.

(a) In General.—Subtitle E (33 U.S.C. 3071 et seq.), as amended by section 202(a) of this Act, is further amended by adding at the end the following:
SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION ASSISTANCE PROGRAM.

"(a) Authority To Provide Financial Assistance.—For the purpose of maintaining adequate numbers of officers of the commissioned officer corps of the Administration on active duty, the Secretary may provide financial assistance to a person described in subsection (b) for expenses of such person while such person is pursuing on a full-time basis at an accredited educational institution (as determined by the Secretary of Education) a program of education approved by the Secretary that leads to—

"(1) a baccalaureate degree in not more than 5 academic years; or

"(2) a postbaccalaureate degree.

"(b) Eligible Persons.—

"(1) In General.—A person is eligible to obtain financial assistance under subsection (a) if such person—

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

"(B) meets all of the requirements for acceptance into the commissioned officer corps of the Administration except for the completion of a baccalaureate degree; and
“(C) enters into a written agreement with
the Secretary described in paragraph (2).

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

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

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

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

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

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

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

“(2) The cost of educational materials.

“(3) In the case of a program of education
leading to a baccalaureate degree, laboratory ex-
penses.
“(4) Such other expenses as the Secretary considers appropriate.

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

“(e) DURATION OF ASSISTANCE.—Financial assistance may be provided to a person under subsection (a) for not more than 5 consecutive academic years.

“(f) SUBSISTENCE ALLOWANCE.—

“(1) IN GENERAL.—A person who receives financial assistance under subsection (a) shall be entitled to a monthly subsistence allowance at a rate prescribed under paragraph (2) for the duration of the period for which the person receives such financial assistance.

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

“(g) INITIAL CLOTHING ALLOWANCE.—
“(1) Training.—The Secretary may prescribe a sum which shall be credited to each person who receives financial assistance under subsection (a) to cover the cost of the person’s initial clothing and equipment issue.

“(2) Appointment.—Upon completion of the program of education for which a person receives financial assistance under subsection (a) and acceptance of appointment in the commissioned officer corps of the Administration, the person may be issued a subsequent clothing allowance equivalent to that normally provided to a newly appointed officer.

“(h) Termination of Financial Assistance.—

“(1) In general.—The Secretary shall terminate the assistance provided to a person under this section if—

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

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

“(C) the person fails to fulfill any term or condition of the agreement.
“(2) Reimbursement.—The Secretary may require a person who receives assistance described in subsection (c), (f), or (g) under an agreement entered into under subsection (b)(1)(C) to reimburse the Secretary in an amount that bears the same ratio to the total costs of the assistance provided to that person as the unserved portion of active duty bears to the total period of active duty the officer agreed to serve under the agreement.

“(3) Waiver.—The Secretary may waive the service obligation of a person through an agreement entered into under subsection (b)(1)(C) if the person—

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

“(B) is—

“(i) not physically qualified for appointment; and

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

“(4) Obligation as debt to United States.—An obligation to reimburse the Secretary imposed under paragraph (2) is, for all purposes, a debt owed to the United States.

“(5) Discharge in Bankruptcy.—A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of a written agreement entered into under subsection (b)(1)(C) does not discharge the person signing the agreement from a debt arising under such agreement or under paragraph (2).

“(i) Regulations.—The Secretary may promulgate such regulations and orders as the Secretary considers appropriate to carry out this section.

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

(b) Clerical Amendment.—The table of contents in section 1 of the Hydrographic Services Improvement Act Amendments of 2002 (Public Law 107–372), as
amended by this Act, is further amended by inserting after the item relating to section 268 the following:

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

SEC. 204. LIMITATION ON EDUCATIONAL ASSISTANCE.

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

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

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

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

(a) Applicability of certain provisions of Title 10.—Section 261(a) (33 U.S.C. 3071(a)) is amend-
ed—

(1) by redesignating paragraphs (13) through
(16) as paragraphs (22) through (25), respectively;
(2) by redesignating paragraphs (7) through
(12) as paragraphs (14) through (19), respectively;
(3) by redesignating paragraphs (4) through
(6) as paragraphs (8) through (10), respectively;
(4) by inserting after paragraph (3) the fol-
lowing:

“(4) Section 771, relating to unauthorized
wearing of uniforms.
“(5) Section 774, relating to wearing religious
apparel while in uniform.
“(6) Section 982, relating to service on State
and local juries.
“(7) Section 1031, relating to administration of
oaths.”;

(5) by inserting after paragraph (10), as redes-
ignated, the following:
“(11) Section 1074n, relating to annual mental health assessments for members of the Armed Forces.

“(12) Section 1090a, relating to commanding officer and supervisor referrals of members for mental health evaluations.

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

(6) by inserting after paragraph (19), as redesignated, the following:

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

“(21) Section 2005, relating to advanced education assistance, active duty agreements, and reimbursement requirements.”.

(b) EXTENSION OF CERTAIN AUTHORITIES.—

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

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

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


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(2) Acceptance of voluntary services for programs serving members and their families.—Section 1588 of such title is amended—

(A) in subsection (a)(3), in the matter before subparagraph (A), by striking “armed forces” and inserting “uniformed services”; and

(B) by adding at the end the following:

“(g) Secretary concerned for acceptance of services for programs serving members of NOAA Corps and their families.—For purposes of the acceptance of services described in subsection (a)(3), the term ‘Secretary concerned’ in subsection (a) shall include the Secretary of Commerce with respect to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration.”.

(3) Capstone course for newly selected flag officers.—Section 2153 of such title is amended—

(A) in subsection (a)—

(i) by inserting “or the commissioned officer corps of the National Oceanic and Atmospheric Administration” after “in the case of the Navy”; and
(ii) by striking “other armed forces” and inserting “other uniformed services”;

and

(B) in subsection (b)(1), in the matter before subparagraph (A), by inserting “or the Secretary of Commerce, as applicable,” after “the Secretary of Defense”.

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

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

“SEC. 261a. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 37, UNITED STATES CODE.

“(a) PROVISIONS MADE APPLICABLE TO COMMISSIONED OFFICER CORPS.—The provisions of law applicable to the Armed Forces under the following provisions of title 37, United States Code, shall apply to the commissioned officer corps of the Administration:

“(1) Section 324, relating to special pay and accession bonuses for new officers in critical skills.

“(2) Section 403(l), relating to temporary continuation of housing allowance for dependents of members dying on active duty.
“(3) Section 415, relating to initial uniform allowances.

“(4) Section 488, relating to allowances for recruiting expenses.

“(5) Section 495, relating to allowances for funeral honors duty.

“(b) Field Duty and Sea Duty.—The Secretary may prescribe definitions for the terms ‘field duty’ and ‘sea duty’ for the purposes of section 413 of title 37, United States Code, with respect to the commissioned officer corps of the Administration.

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

(b) Personal Money Allowance.—Section 414 of title 37, United States Code, is amended by inserting “or the Director of the commissioned officer corps of the National Oceanic and Atmospheric Administration” after “Health Service”.

(c) Clerical Amendment.—The table of contents in section 1 of the Hydrographic Services Improvement
Act Amendments of 2002 (Public Law 107–372), as amended by this Act, is further amended by inserting after the item relating to section 261 the following:

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

SEC. 207. PROHIBITION ON RETALIATORY PERSONNEL ACTIONS.

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

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

(2) by inserting after paragraph (7) the following:

“(8) Section 1034, relating to protected communications and prohibition of retaliatory personnel actions.”.

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

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

(2) by adding at the end the following:

“(b) For purposes of subsection (a)(8), the term ‘Inspector General’ in section 1034 of title 10 shall mean the Inspector General of the Department of Commerce.”.
(c) Regulations.—Such section is further amended by adding at the end the following:

“(c) Regulations Regarding Protected Communications and Prohibition of Retaliatory Personnel Actions.—The Secretary may promulgate regulations to carry out section 261(a)(8), including by promulgating such administrative procedures for investigation and appeal within the commissioned officer corps as the Secretary considers appropriate.”

SEC. 208. APPLICATION OF CERTAIN PROVISIONS OF COMPETITIVE SERVICE LAW.

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

(1) by amending paragraph (1) to read as follows:

“(1) The following individuals may not be denied the opportunity to compete for vacant positions for which the agency making the announcement will accept applications from individuals outside its own workforce under merit promotion procedures:

“(A) Preference eligibles.

“(B) Veterans who have been separated from the Armed Forces under honorable conditions after 3 years or more of active service.
“(C) Members of the commissioned officer corps of the National Oceanic and Atmospheric Administration separated from such officer corps under honorable conditions after 3 years or more of active service.”;

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

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

SEC. 209. EMPLOYMENT AND REEMPLOYMENT RIGHTS.

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

SEC. 210. TREATMENT OF COMMISSION IN COMMISSIONED OFFICER CORPS FOR PURPOSES OF CERTAIN HIRING DECISIONS.

(a) In general.—Subtitle E (33 U.S.C. 3071 et seq.), as amended by section 206(a) of this Act, is further amended by adding at the end the following:
“SEC. 270. TREATMENT OF COMMISSION IN COMMISSIONED OFFICER CORPS AS EMPLOYMENT IN ADMINISTRATION FOR PURPOSES OF CERTAIN HIRING DECISIONS.

“(a) IN GENERAL.—In any case in which the Secretary accepts an application for a position of employment with the Administration and limits consideration of applications for such position to applications submitted by individuals serving in a career or career-conditional position in the competitive service within the Administration, the Secretary shall deem an officer who has served as an officer in the commissioned officer corps for at least 3 years to be serving in a career or career-conditional position in the competitive service within the Administration for purposes of such limitation.

“(b) CAREER APPOINTMENTS.—If the Secretary selects an application submitted by an officer described in subsection (a) for a position described in such subsection, the Secretary shall give such officer a career or career-conditional appointment in the competitive service, as appropriate.

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

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Hydrographic Services Improvement
Act Amendments of 2002 (Public Law 107–372), as amended by this Act, is further amended by inserting after the item relating to section 269 the following:

“Sec. 270. Treatment of commission in commissioned officer corps as employment in Administration for purposes of certain hiring decisions.”

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

**SEC. 301. APPOINTMENTS.**

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

“SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINTMENTS.

“(a) **ORIGINAL APPOINTMENTS.**—

“(1) **GRADES.**—

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

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

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

“(B) **APPOINTMENT OF OFFICER CANDIDATES.**—

“(i) **LIMITATION ON GRADE.**—An original appointment of an officer can-
didate, upon graduation from the basic officer training program of the commissioned officer corps of the Administration, may not be made in any other grade than ensign.

“(ii) Rank.—Officer candidates receiving appointments as ensigns upon graduation from basic officer training program shall take rank according to their proficiency as shown by the order of their merit at date of graduation.

“(2) Source of Appointments.—An original appointment may be made from among the following:

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

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

“(C) Graduates of the maritime academies of the States who—
“(i) otherwise meet the academic standards for enrollment in the training program described in subparagraph (A);

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

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

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

“(3) DEFINITIONS.—In this subsection:

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

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

“(ii) Great Lakes Maritime Academy, Traverse City, Michigan.
“(iii) Maine Maritime Academy, Castine, Maine.

“(iv) Massachusetts Maritime Academy, Buzzards Bay, Massachusetts.

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

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

“(B) MILITARY SERVICE ACADEMIES OF THE UNITED STATES.—The term ‘military service academies of the United States’ means the following:

“(i) The United States Military Academy.

“(ii) The United States Naval Academy.

“(iii) The United States Air Force Academy.

“(iv) The United States Coast Guard Academy.

“(v) The United States Merchant Marine Academy.

“(b) REAPPOINTMENT.—
“(1) IN GENERAL.—Except as provided in paragraph (2), an individual who previously served in the commissioned officer corps of the Administration may be appointed by the Secretary to the grade the individual held prior to separation.

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

“(c) QUALIFICATIONS.—An appointment under subsection (a) or (b) may not be given to an individual until the individual’s mental, moral, physical, and professional fitness to perform the duties of an officer has been established under such regulations as the Secretary shall prescribe.

“(d) PRECEDENCE OF APPOINTEES.—Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in such grade. Appointees whose dates of commission are the same shall take precedence with each other as the Secretary shall determine.

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

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

“(2) give preference to such inter-service transfers for recruitment purposes as determined appropriate by the Secretary; and

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

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

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

SEC. 302. PERSONNEL BOARDS.

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

“SEC. 222. PERSONNEL BOARDS.

“(a) CONVENING.—Not less frequently than once each year and at such other times as the Secretary determines necessary, the Secretary shall convene a personnel board.
“(b) Membership.—

“(1) In General.—A board convened under subsection (a) shall consist of five or more officers who are serving in or above the permanent grade of the officers under consideration by the board.

“(2) Retired Officers.—Officers on the retired list may be recalled to serve on such personnel boards as the Secretary considers necessary.

“(3) No Membership on 2 Successive Boards.—No officer may be a member of 2 successive personnel boards convened to consider officers of the same grade for promotion or separation.

“(c) Duties.—Each personnel board shall—

“(1) recommend to the Secretary such changes as may be necessary to correct any erroneous position on the lineal list that was caused by administrative error; and

“(2) make selections and recommendations to the Secretary and the President for the appointment, promotion, involuntary separation, continuation, and involuntary retirement of officers in the commissioned officer corps of the Administration as prescribed in this title.

“(d) Action on Recommendations Not Acceptable.—If any recommendation by a board convened
under subsection (a) is not accepted by the Secretary or
the President, the board shall make such further re-
ommendations as the Secretary or the President considers
appropriate.”.

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

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

(1) in subsection (c)—

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

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

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

(3) by amending subsection (e) to read as fol-

“(e) NUMBER OF OFFICERS APPOINTED.—The total
number of officers serving on active duty at any one time
in the grade of rear admiral (lower half) or above may
not exceed five, with only one serving in the grade of vice
admiral.”; and
(4) in subsection (f), by inserting “or in a period of terminal leave” before “, shall have the pay”.

SEC. 304. TEMPORARY APPOINTMENTS.

(a) In General.—Section 229 (33 U.S.C. 3029) is amended to read as follows:

“SEC. 229. TEMPORARY APPOINTMENTS.

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

“(b) TERMINATION.—A temporary appointment to a position under subsection (a) shall terminate upon approval of a permanent appointment for such position made by the President.

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

“(d) ANY ONE GRADE.—When determined by the Secretary to be in the best interest of the commissioned officer corps, officers in any permanent grade may be temporarily promoted one grade by the President. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.”.
(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Hydrographic Services Improvement Act Amendments of 2002 (Public Law 107–372), as amended by this Act, is further amended by striking the item relating to section 229 and inserting the following:

“Sec. 229. Temporary appointments.”.

SEC. 305. OFFICER CANDIDATES.

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

“SEC. 234. OFFICER CANDIDATES.

“(a) DETERMINATION OF NUMBER.—The Secretary shall determine the number of appointments of officer candidates.

“(b) APPOINTMENT.—Appointment of officer candidates shall be made under regulations which the Secretary shall prescribe, including regulations with respect to determining age limits, methods of selection of officer candidates, term of service as an officer candidate before graduation from the program, and all other matters affecting such appointment.

“(c) DISMISSAL.—The Secretary may dismiss from the basic officer training program of the Administration any officer candidate who, during the officer candidate’s term as an officer candidate, the Secretary considers unsatisfactory in either academics or conduct, or not adapted for a career in the commissioned officer corps of the Ad-
ministration. Officer candidates shall be subject to rules
governing discipline prescribed by the Director of the Na-
tional Oceanic and Atmospheric Administration Commiss-
ioned Officer Corps.

“(d) AGREEMENT.—

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

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

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

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

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

“(ii) will serve on active duty for at
least 4 years immediately after such ap-
pointment.
“(e) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. Such regulations shall include—

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

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

“(f) REPAYMENT.—An officer candidate or former officer candidate who does not fulfill the terms of the obligation to serve as specified under section (d) shall be subject to the repayment provisions of section 216(b).”.

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

“Sec. 234. Officer candidates.”.

(c) OFFICER CANDIDATE DEFINED.—Section 212(b) (33 U.S.C. 3002(b)) is amended by inserting after paragraph (6) the following:

“(7) OFFICER CANDIDATE.—The term ‘officer candidate’ means an individual who is enrolled in the basic officer training program of the Administration and is under consideration for appointment as an officer under section 221(a)(2)(A).”.

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(d) Pay for Officer Candidates.—Section 203 of title 37, United States Code, is amended by adding at the end the following:

“(f)(1) An officer candidate enrolled in the basic officer training program of the commissioned officer corps of the National Oceanic and Atmospheric Administration is entitled, while participating in such program, to monthly officer candidate pay at a monthly rate equal to the basic pay of an enlisted member in the pay grade E–5 with less than 2 years service.

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

SEC. 306. PROCUREMENT OF PERSONNEL.

(a) In General.—Subtitle B (33 U.S.C. 3021 et seq.), as amended by section 305(a) of this Act, is further amended by adding at the end the following:

“SEC. 235. PROCUREMENT OF PERSONNEL.

“The Secretary may make such expenditures as the Secretary considers necessary in order to obtain recruits for the commissioned officer corps of the Administration, including advertising.”.
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(b) Clerical Amendment.—The table of contents in section 1 of the Hydrographic Services Improvement Act Amendments of 2002 (Public Law 107–372), as amended by this Act, is further amended by inserting after the item relating to section 234 the following:

“235. Procurement of personnel.”

TITLE IV—SEPARATION AND RETIREMENT OF OFFICERS

SEC. 401. INVOLUNTARY RETIREMENT OR SEPARATION.

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

“(d) Deferment of Retirement or Separation for Medical Reasons.—

“(1) In general.—If the Secretary determines that the evaluation of the medical condition of an officer requires hospitalization or medical observation that cannot be completed with confidence in a manner consistent with the officer’s well being before the date on which the officer would otherwise be required to retire or be separated under this section, the Secretary may defer the retirement or separation of the officer.

“(2) Consent required.—A deferment may only be made with the written consent of the officer involved. If the officer does not provide written con-
sent to the deferment, the officer shall be retired or
separated as scheduled.

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

SEC. 402. SEPARATION PAY.

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

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

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

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

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