

115TH CONGRESS  
1ST SESSION

# S. 171

To reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 17, 2017

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

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## A BILL

To reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes.

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

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

4       (a) SHORT TITLE.—This Act may be cited as the  
5 “National Oceanic and Atmospheric Administration Com-  
6 missioned Officer Corps Amendments and Hydrographic

1 Services Improvement Act Reauthorization and Amend-  
 2 ments Act of 2017”.

3 (b) TABLE OF CONTENTS.—The table of contents for  
 4 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. Legion of Merit award.
- Sec. 208. Prohibition on retaliatory personnel actions.
- Sec. 209. Penalties for wearing uniform without authority.
- Sec. 210. Application of certain provisions of competitive service law.
- Sec. 211. Employment and reemployment rights.
- Sec. 212. Treatment of commission in commissioned officer corps for purposes  
 of certain hiring decisions.
- Sec. 213. Direct hire authority.

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

- Sec. 301. Appointments.
- Sec. 302. Personnel boards.
- Sec. 303. Delegation of authority.
- Sec. 304. Assistant Administrator of the Office of Marine and Aviation Oper-  
 ations.
- Sec. 305. Temporary appointments.
- Sec. 306. Officer candidates.
- Sec. 307. Procurement of personnel.

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

- Sec. 401. Involuntary retirement or separation.
- Sec. 402. Separation pay.



1           “(6) Lieutenant commander.

2           “(7) Lieutenant.

3           “(8) Lieutenant (junior grade).

4           “(9) Ensign.

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

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

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

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

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

1       “(d) TEMPORARY INCREASE IN NUMBERS.—The  
2 total number of officers authorized by law to be on the  
3 lineal list during a fiscal year may be temporarily exceeded  
4 if the average number on that list during that fiscal year  
5 does not exceed the authorized number.

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

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

17 **SEC. 102. RECALLED OFFICERS.**

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

19           (1) in the matter before paragraph (1), by  
20 striking “Effective” and inserting the following:

21           “(a) IN GENERAL.—Effective”; and

22           (2) by adding at the end the following new sub-  
23 section:

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

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

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

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

7 **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) RULEMAKING.—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 that 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 sections  
10 in section 1 of the Act entitled “An Act to authorize the  
11 Hydrographic Services Improvement Act of 1998, and for  
12 other purposes” (Public Law 107–372) is amended by in-  
13 serting after the item relating to section 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(a), is further amended  
17 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           respondence 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 books 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 in the Coast Guard.”.

18          (b) CLERICAL AMENDMENT.—The table of sections  
19          in section 1 of the Act entitled “An Act to authorize the  
20          Hydrographic Services Improvement Act of 1998, and for  
21          other purposes” (Public Law 107–372), as amended by  
22          section 103(b), is further amended by inserting after the  
23          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(a), is further amended  
4 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. Any such use shall be under such conditions and  
12 subject to such restrictions as the Secretary shall pre-  
13 scribe.”.

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

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

20 **SEC. 106. TECHNICAL CORRECTION.**

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

1                   **TITLE II—PARITY AND**  
2                   **RECRUITMENT**

3 **SEC. 201. EDUCATION LOANS.**

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

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

7           “(a) AUTHORITY TO REPAY EDUCATION LOANS.—

8 For the purpose of maintaining adequate numbers of offi-  
9 cers of the commissioned officer corps of the Administra-  
10 tion on active duty who have skills required by the com-

11 missioned officer corps, the Secretary may repay, in the  
12 case of a person described in subsection (b), a loan that—

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

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

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

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

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

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

5           “(c) ACADEMIC AND PROFESSIONAL REQUIRE-  
6           MENTS.—One of the following academic requirements  
7           must be satisfied for purposes of determining the eligi-  
8           bility of an individual for a loan repayment under this sec-  
9           tion:

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

14           “(2) The person is enrolled as a full-time stu-  
15           dent in the final year of a course of study at an ac-  
16           credited educational institution (as determined by  
17           the Secretary of Education) leading to a degree in  
18           a profession that will meet identified skill shortages  
19           in the commissioned officer corps.

20           “(d) LOAN REPAYMENTS.—

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

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

7           “(e) ACTIVE DUTY SERVICE OBLIGATION.—

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

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

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

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

23           “(3) PERSONS ON ACTIVE DUTY BEFORE EN-  
24 TERING INTO AGREEMENT.—The active duty service  
25 obligation of persons on active duty before entering

1 into the agreement shall be served after the conclu-  
2 sion of any other obligation incurred under the  
3 agreement.

4 “(f) EFFECT OF FAILURE TO COMPLETE OBLIGA-  
5 TION.—

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

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

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

19 “(1) standards for qualified loans and author-  
20 ized payees; and

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

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

1 other purposes” (Public Law 107–372) is amended by in-  
2 serting after the item relating to section 266 the following:

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

3 **SEC. 202. INTEREST PAYMENTS.**

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

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

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

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

14 “(1) is serving on active duty;

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

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

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

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

23 “(1) A loan made, insured, or guaranteed under  
24 part B of title IV of the Higher Education Act of  
25 1965 (20 U.S.C. 1071 et seq.).

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

3           “(3) A loan made under part E of such title  
4           (20 U.S.C. 1087aa et seq.).

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

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

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

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

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

21           “(A) to pay interest and special allowances  
22 on student loans under this section (in accord-  
23 ance with sections 428(o), 455(l), and 464(j) of  
24 the Higher Education Act of 1965 (20 U.S.C.  
25 1078(o), 1087e(l), and 1087dd(j))); and

1           “(B) to reimburse the Secretary of Edu-  
 2           cation for any reasonable administrative costs  
 3           incurred by the Secretary in coordinating the  
 4           program under this section with the administra-  
 5           tion of the student loan programs under parts  
 6           B, D, and E of title IV of the Higher Edu-  
 7           cation Act of 1965 (20 U.S.C. 1071 et seq.,  
 8           1087a et seq., 1087aa et seq.).

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

13          (b) CONFORMING AMENDMENTS.—

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

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

20           (B) in paragraph (1)—

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

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

5 (2) Sections 455(l) and 464(j) of the Higher  
6 Education Act of 1965 (20 U.S.C. 1087e(l) and  
7 1087dd(j)) are each amended—

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

12 (B) in paragraph (1)—

13 (i) by inserting “or section 264 of the  
14 National Oceanic and Atmospheric Admin-  
15 istration Commissioned Officer Corps Act  
16 of 2002” after “Code,”; and

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

21 (c) CLERICAL AMENDMENT.—The table of sections  
22 in section 1 of the Act entitled “An Act to authorize the  
23 Hydrographic Services Improvement Act of 1998, and for  
24 other purposes” (Public Law 107–372), as amended by

1 section 201(b), is further amended by inserting after the  
 2 item relating to section 267 the following:

“Sec. 268. Interest payment program.”.

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

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

7 **“SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION AS-**  
 8 **SISTANCE PROGRAM.**

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

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

20 “(2) a postbaccalaureate degree.

21 “(b) ELIGIBLE PERSONS.—

22 “(1) IN GENERAL.—A person is eligible to ob-  
 23 tain financial assistance under subsection (a) if the  
 24 person—

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

5           “(B) meets all of the requirements for ac-  
6           ceptance into the commissioned officer corps of  
7           the Administration except for the completion of  
8           a baccalaureate degree; and

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

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

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

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

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

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

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

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

6           “(2) The cost of books.

7           “(3) In the case of a program of education  
8 leading to a baccalaureate degree, laboratory ex-  
9 penses.

10          “(4) Such other expenses as the Secretary con-  
11 siders appropriate.

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

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

22       “(f) SUBSISTENCE ALLOWANCE.—

23           “(1) IN GENERAL.—A person who receives fi-  
24 nancial assistance under subsection (a) shall be enti-  
25 tled to a monthly subsistence allowance at a rate

1 prescribed under paragraph (2) for the duration of  
2 the period for which the person receives such finan-  
3 cial assistance.

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

9 “(g) INITIAL CLOTHING ALLOWANCE.—

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

15 “(2) APPOINTMENT.—Upon completion of the  
16 program of education for which a person receives fi-  
17 nancial assistance under subsection (a) and accept-  
18 ance of appointment in the commissioned officer  
19 corps of the Administration, the person may be  
20 issued a subsequent clothing allowance equivalent to  
21 that normally provided to a newly appointed officer.

22 “(h) TERMINATION OF FINANCIAL ASSISTANCE.—

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

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

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

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

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

18          “(3) WAIVER.—The Secretary may waive the  
19          service obligation of a person through an agreement  
20          entered into under subsection (b)(1)(C) if the per-  
21          son—

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

1 “(B) is—

2 “(i) not physically qualified for ap-  
3 pointment; and

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

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

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

21 “(i) REGULATIONS.—The Secretary may promulgate  
22 such regulations and orders as the Secretary considers ap-  
23 propriate to carry out this section.”.

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

1 Hydrographic Services Improvement Act of 1998, and for  
2 other purposes” (Public Law 107–372), as amended by  
3 section 202(c), is further amended by inserting after the  
4 item relating to section 268 the following:

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

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

6 (a) IN GENERAL.—Each fiscal year, beginning with  
7 the fiscal year in which this Act is enacted, the Secretary  
8 of Commerce shall ensure that the total amount expended  
9 by the Secretary under section 267 of the National Ocea-  
10 nic and Atmospheric Administration Commissioned Offi-  
11 cer Corps Act of 2002 (as added by section 201(a)), sec-  
12 tion 268 of such Act (as added by section 202(a)), and  
13 section 269 of such Act (as added by section 203(a)) does  
14 not exceed the amount by which—

15 (1) the total amount the Secretary would pay in  
16 that fiscal year to officer candidates under section  
17 203(f)(1) of title 37, United States Code (as added  
18 by section 306(d)), if such section entitled officers  
19 candidates to pay at monthly rates equal to the  
20 basic pay of a commissioned officer in the pay grade  
21 O–1 with less than 2 years of service, exceeds

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

1 (b) OFFICER CANDIDATE DEFINED.—In this section,  
2 the term “officer candidate” has the meaning given the  
3 term in section 212 of the National Oceanic and Atmos-  
4 pheric Administration Commissioned Officer Corps Act of  
5 2002 (33 U.S.C. 3002), as added by section 306(c).

6 **SEC. 205. APPLICABILITY OF CERTAIN PROVISIONS OF**  
7 **TITLE 10, UNITED STATES CODE, AND EXTEN-**  
8 **SION OF CERTAIN AUTHORITIES APPLICABLE**  
9 **TO MEMBERS OF THE ARMED FORCES TO**  
10 **COMMISSIONED OFFICER CORPS.**

11 (a) APPLICABILITY OF CERTAIN PROVISIONS OF  
12 TITLE 10.—Section 261(a) (33 U.S.C. 3071(a)) is amend-  
13 ed—

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

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

18 (3) by redesignating paragraphs (4) through  
19 (6) as paragraphs (8) through (10), respectively;

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

22 “(4) Section 771, relating to unauthorized  
23 wearing of uniforms.

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

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

3           “(7) Section 1031, relating to administration of  
4           oaths.”;

5           (5) by inserting after paragraph (10), as reded-  
6           ignated, the following:

7           “(11) Section 1074n, relating to annual mental  
8           health assessments.

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

11          “(13) Chapter 58, relating to the Benefits and  
12          Services for members being separated or recently  
13          separated.”; and

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

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

18          “(21) Section 2005, relating to advanced edu-  
19          cation assistance, active duty agreements, and reim-  
20          bursement requirements.”.

21          (b) EXTENSION OF CERTAIN AUTHORITIES.—

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

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

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

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

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

13 (B) by adding at the end the following new  
14 subsection:

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

23 (3) CAPSTONE COURSE FOR NEWLY SELECTED  
24 FLAG OFFICERS.—Section 2153 of such title is  
25 amended—

1 (A) in subsection (a)—

2 (i) by inserting “or the commissioned  
3 officer corps of the National Oceanic and  
4 Atmospheric Administration” after “in the  
5 case of the Navy”; and

6 (ii) by striking “other armed forces”  
7 and inserting “other uniformed services”;  
8 and

9 (B) in subsection (b)(1), in the matter be-  
10 fore subparagraph (A), by inserting “or the  
11 Secretary of Commerce, as applicable,” after  
12 “the Secretary of Defense”.

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

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

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

20 “(a) PROVISIONS MADE APPLICABLE TO COMMIS-  
21 SIONED OFFICER CORPS.—The provisions of law applica-  
22 ble to the Armed Forces under the following provisions  
23 of title 37, United States Code, shall apply to the commis-  
24 sioned officer corps of the Administration:

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

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

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

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

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

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

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

1 (c) CLERICAL AMENDMENT.—The table of sections  
 2 in section 1 of the Act entitled “An Act to authorize the  
 3 Hydrographic Services Improvement Act of 1998, and for  
 4 other purposes” (Public Law 107–372) is amended by in-  
 5 serting after the item relating to section 261 the following:

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

6 **SEC. 207. LEGION OF MERIT AWARD.**

7 Section 1121 of title 10, United States Code, is  
 8 amended by striking “armed forces” and inserting “uni-  
 9 formed services”.

10 **SEC. 208. PROHIBITION ON RETALIATORY PERSONNEL AC-**  
 11 **TIONS.**

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

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

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

20 “(8) Section 1034, relating to protected com-  
 21 munications and prohibition of retaliatory personnel  
 22 actions.”.

23 (b) CONFORMING AMENDMENT.—Subsection (b) of  
 24 such section is amended by adding at the end the fol-

1 lowing: “For purposes of paragraph (8) of subsection (a),  
 2 the term ‘Inspector General’ in section 1034 of such title  
 3 10 shall mean the Inspector General of the Department  
 4 of Commerce.”.

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

7 “(c) REGULATIONS REGARDING PROTECTED COM-  
 8 MUNICATIONS AND PROHIBITION OF RETALIATORY PER-  
 9 SONNEL ACTIONS.—The Secretary may promulgate regu-  
 10 lations to carry out the application of section 1034 of title  
 11 10, United States Code, to the commissioned officer corps  
 12 of the Administration, including by promulgating such ad-  
 13 ministrative procedures for investigation and appeal with-  
 14 in the commissioned officer corps as the Secretary con-  
 15 siders appropriate.”.

16 **SEC. 209. PENALTIES FOR WEARING UNIFORM WITHOUT**  
 17 **AUTHORITY.**

18 Section 702 of title 18, United States Code, is  
 19 amended by striking “Service or any” and inserting “Serv-  
 20 ice, the commissioned officer corps of the National Oce-  
 21 anic and Atmospheric Administration, or any”.

22 **SEC. 210. APPLICATION OF CERTAIN PROVISIONS OF COM-**  
 23 **PETITIVE SERVICE LAW.**

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

1           (1) in paragraph (1), by inserting “and mem-  
 2           bers of the commissioned officer corps of the Na-  
 3           tional Oceanic and Atmospheric Administration (or  
 4           its predecessor organization the Coast and Geodetic  
 5           Survey) separated from such uniformed service”  
 6           after “separated from the armed forces”;

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

9           (3) in paragraph (4), by inserting “and mem-  
 10          bers of the commissioned officer corps of the Na-  
 11          tional Oceanic and Atmospheric Administration (or  
 12          its predecessor organization the Coast and Geodetic  
 13          Survey) separated from such uniformed service”  
 14          after “separated from the armed forces”.

15 **SEC. 211. EMPLOYMENT AND REEMPLOYMENT RIGHTS.**

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

20 **SEC. 212. TREATMENT OF COMMISSION IN COMMISSIONED**  
 21                                   **OFFICER CORPS FOR PURPOSES OF CERTAIN**  
 22                                   **HIRING DECISIONS.**

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

1 **“SEC. 269A. TREATMENT OF COMMISSION IN COMMIS-**  
2 **SIONED OFFICER CORPS AS EMPLOYMENT IN**  
3 **ADMINISTRATION FOR PURPOSES OF CER-**  
4 **TAIN HIRING 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 sections  
26 in section 1 of the Act entitled “An Act to authorize the

1 Hydrographic Services Improvement Act of 1998, and for  
 2 other purposes” (Public Law 107–372) is amended by in-  
 3 serting after the item relating to section 269, as added  
 4 by section 203, the following new item:

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

5 **SEC. 213. DIRECT HIRE AUTHORITY.**

6 (a) IN GENERAL.—The head of a Federal agency  
 7 may appoint, without regard to the provisions of sub-  
 8 chapter I of chapter 33 of title 5, United States Code,  
 9 other than sections 3303 and 3328 of such title, a quali-  
 10 fied candidate described in subsection (b) directly to a po-  
 11 sition in the agency for which the candidate meets quali-  
 12 fication standards of the Office of Personnel Management.

13 (b) CANDIDATES DESCRIBED.—A candidate de-  
 14 scribed in this subsection is a current or former member  
 15 of the commissioned officer corps of the National Oceanic  
 16 and Atmospheric Administration who—

17 (1) fulfilled his or her obligated service require-  
 18 ment under section 216 of the National Oceanic and  
 19 Atmospheric Administration Commissioned Officer  
 20 Corps Act of 2002, as added by section 103;

21 (2) if no longer a member of the commissioned  
 22 officer corps of the Administration, was not dis-  
 23 charged or released therefrom as part of a discipli-  
 24 nary action; and



1           “(i) LIMITATION ON GRADE.—An  
2 original appointment of an officer can-  
3 didate, upon graduation from the basic of-  
4 ficer training program of the commissioned  
5 officer corps of the Administration, may  
6 not be made in any other grade than en-  
7 sign.

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

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

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

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

1           “(C) Graduates of the maritime academies  
2 of the States who—

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

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

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

13           “(D) Licensed officers of the United States  
14 merchant marine who have served 2 or more  
15 years aboard a vessel of the United States in  
16 the capacity of a licensed officer, who otherwise  
17 meet the academic standards for enrollment in  
18 the training program described in subparagraph  
19 (A).

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

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

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

1                   “(ii) Great Lakes Maritime Academy,  
2                   Traverse City, Michigan.

3                   “(iii) Maine Maritime Academy,  
4                   Castine, Maine.

5                   “(iv) Massachusetts Maritime Acad-  
6                   emy, Buzzards Bay, Massachusetts.

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

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

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

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

18                         “(ii) The United States Naval Acad-  
19                         emy, Annapolis, Maryland.

20                         “(iii) The United States Air Force  
21                         Academy, Colorado Springs, Colorado.

22                         “(iv) The United States Coast Guard  
23                         Academy, New London, Connecticut.

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

1       “(b) REAPPOINTMENT.—

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

7               “(2) REAPPOINTMENTS TO HIGHER GRADES.—

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

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

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

24      “(e) INTER-SERVICE TRANSFERS.—For inter-service  
25     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 sections  
14 in section 1 of the Act entitled “An Act to authorize the  
15 Hydrographic Services Improvement Act of 1998, and for  
16 other purposes” (Public Law 107–372) is amended by  
17 striking the item relating to section 221 and inserting the  
18 following:

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

19 **SEC. 302. PERSONNEL BOARDS.**

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

22 **“SEC. 222. PERSONNEL BOARDS.**

23 “(a) CONVENING.—Not less frequently than once  
24 each year and at such other times as the Secretary deter-

1 mines necessary, the Secretary shall convene a personnel  
2 board.

3 “(b) MEMBERSHIP.—

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

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

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

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

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

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

1       “(d) ACTION ON RECOMMENDATIONS NOT ACCEPT-  
2 ABLE.—If any recommendation by a board convened  
3 under subsection (a) is not accepted by the Secretary or  
4 the President, the board shall make such further rec-  
5 ommendations as the Secretary or the President considers  
6 appropriate.”.

7 **SEC. 303. DELEGATION OF AUTHORITY.**

8       Section 226 (33 U.S.C. 3026) is amended—

9           (1) by striking “Appointments” and inserting  
10       the following:

11       “(a) IN GENERAL.—Appointments”; and

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

13       “(b) DELEGATION OF APPOINTMENT AUTHORITY.—  
14 If the President delegates authority to the Secretary to  
15 make appointments under this section, the President shall,  
16 during a period in which the position of the Secretary is  
17 vacant, delegate such authority to the Deputy Secretary  
18 of Commerce or the Under Secretary for Oceans and At-  
19 mosphere during such period.”.

20 **SEC. 304. ASSISTANT ADMINISTRATOR OF THE OFFICE OF**  
21 **MARINE AND AVIATION OPERATIONS.**

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

23           (1) in the fourth sentence, by striking “Direc-  
24       tor” and inserting “Assistant Administrator”; and

1           (2) in the heading, by inserting “ASSISTANT  
2           ADMINISTRATOR OF THE” before “OFFICE”.

3 **SEC. 305. 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       “(e) DELEGATION OF APPOINTMENT AUTHORITY.—  
 2 If the President delegates authority to the Secretary to  
 3 make appointments under this section, the President shall,  
 4 during a period in which the position of the Secretary is  
 5 vacant, delegate such authority to the Deputy Secretary  
 6 of Commerce or the Under Secretary for Oceans and At-  
 7 mosphere during such period.”.

8       (b) CLERICAL AMENDMENT.—The table of sections  
 9 in section 1 of the Act entitled “An Act to authorize the  
 10 Hydrographic Services Improvement Act of 1998, and for  
 11 other purposes” (Public Law 107–372) is amended by  
 12 striking the item relating to section 229 and inserting the  
 13 following:

“Sec. 229. Temporary appointments.”.

14 **SEC. 306. OFFICER CANDIDATES.**

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

17 **“SEC. 234. OFFICER CANDIDATES.**

18       “(a) DETERMINATION OF NUMBER.—The Secretary  
 19 shall determine the number of appointments of officer can-  
 20 didates.

21       “(b) APPOINTMENT.—Appointment of officer can-  
 22 didates shall be made under regulations which the Sec-  
 23 retary shall prescribe, including regulations with respect  
 24 to determining age limits, methods of selection of officer  
 25 candidates, term of service as an officer candidate before

1 graduation from the program, and all other matters af-  
2 fecting such appointment.

3       “(c) DISMISSAL.—The Secretary may dismiss from  
4 the basic officer training program of the Administration  
5 any officer candidate who, during the officer candidate’s  
6 term as an officer candidate, the Secretary considers un-  
7 satisfactory in either academics or conduct, or not adapted  
8 for a career in the commissioned officer corps of the Ad-  
9 ministration. Officer candidates shall be subject to rules  
10 governing discipline prescribed by the Director of the Na-  
11 tional Oceanic and Atmospheric Administration Commis-  
12 sioned Officer Corps.

13       “(d) AGREEMENT.—

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

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

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

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

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

5                   “(ii) will serve on active duty for at  
6                   least 4 years immediately after such ap-  
7                   pointment.

8           “(e) REGULATIONS.—The Secretary shall prescribe  
9 regulations to carry out this section. Such regulations  
10 shall include—

11                   “(1) standards for determining what constitutes  
12                   a breach of an agreement signed under such sub-  
13                   section (d)(1); and

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

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

20           (b) CLERICAL AMENDMENT.—The table of sections  
21 in section 1 of the Act entitled “An Act to authorize the  
22 Hydrographic Services Improvement Act of 1998, and for  
23 other purposes” (Public Law 107–372) is amended by in-  
24 serting after the item relating to section 233 the following:

“Sec. 234. Officer candidates.”.

1 (c) OFFICER CANDIDATE DEFINED.—Section 212(b)  
2 (33 U.S.C. 3002(b)) is amended—

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

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

12 (d) PAY FOR OFFICER CANDIDATES.—Section 203 of  
13 title 37, United States Code, is amended by adding at the  
14 end the following:

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

22 “(2) An individual who graduates from such program  
23 shall receive credit for the time spent participating in such  
24 program as if such time were time served while on active  
25 duty as a commissioned officer. If the individual does not

1 graduate from such program, such time shall not be con-  
2 sidered creditable for active duty or pay.”.

3 **SEC. 307. PROCUREMENT OF PERSONNEL.**

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

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

8 “The Secretary may make such expenditures as the  
9 Secretary considers necessary in order to obtain recruits  
10 for the commissioned officer corps of the Administration,  
11 including advertising.”.

12 (b) CLERICAL AMENDMENT.—The table of sections  
13 in section 1 of the Act entitled “An Act to authorize the  
14 Hydrographic Services Improvement Act of 1998, and for  
15 other purposes” (Public Law 107–372), as amended by  
16 section 306(b), is further amended by inserting after the  
17 item relating to section 234 the following:

“235. Procurement of personnel.”.

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

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

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

23 “(d) DEFERMENT OF RETIREMENT OR SEPARATION  
24 FOR MEDICAL REASONS.—

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

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

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

20 **SEC. 402. SEPARATION PAY.**

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

23           “(d) EXCEPTION.—An officer discharged for twice  
24           failing selection for promotion to the next higher grade

1 is not entitled to separation pay under this section if the  
2 officer—

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

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

7 **TITLE V—HYDROGRAPHIC**  
8 **SERVICES AND OTHER MATTERS**

9 **SEC. 501. REAUTHORIZATION OF HYDROGRAPHIC SERV-**  
10 **ICES IMPROVEMENT ACT OF 1998.**

11 (a) REAUTHORIZATIONS.—Section 306 of the Hydro-  
12 graphic Services Improvement Act of 1998 (33 U.S.C.  
13 892d) is amended—

14 (1) in the matter before paragraph (1), by  
15 striking “There are” and inserting the following:

16 “(a) IN GENERAL.—There are”;

17 (2) in subsection (a) (as designated by para-  
18 graph (1))—

19 (A) in paragraph (1), by striking “sur-  
20 veys—” and all that follows through the end of  
21 the paragraph and inserting “surveys,  
22 \$70,814,000 for each of fiscal years 2017  
23 through 2021.”;

24 (B) in paragraph (2), by striking “ves-  
25 sels—” and all that follows through the end of

1 the paragraph and inserting “vessels,  
2 \$25,000,000 for each of fiscal years 2017  
3 through 2021.”;

4 (C) in paragraph (3), by striking “Admin-  
5 istration—” and all that follows through the  
6 end of the paragraph and inserting “Adminis-  
7 tration, \$29,932,000 for each of fiscal years  
8 2017 through 2021.”;

9 (D) in paragraph (4), by striking  
10 “title—” and all that follows through the end  
11 of the paragraph and inserting “title,  
12 \$26,800,000 for each of fiscal years 2017  
13 through 2021.”; and

14 (E) in paragraph (5), by striking  
15 “title—” and all that follows through the end  
16 of the paragraph and inserting “title,  
17 \$30,564,000 for each of fiscal years 2017  
18 through 2021.”; and

19 (3) by adding at the end the following:

20 “(b) ARCTIC PROGRAMS.—Of the amount authorized  
21 by this section for each fiscal year—

22 “(1) \$10,000,000 is authorized for use—

23 “(A) to acquire hydrographic data;

24 “(B) to provide hydrographic services;



1       “(c) NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-  
2 ISTRATION.—The Secretary of Commerce may waive this  
3 subchapter with respect to contracts for the construction,  
4 alteration, or repair of vessels, regardless of the terms of  
5 the contracts as to payment or title, when the contract  
6 is made under the Act entitled ‘An Act to define the func-  
7 tions and duties of the Coast and Geodetic Survey, and  
8 for other purposes’, approved August 6, 1947 (33 U.S.C.  
9 883a et seq.)”.

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