

116TH CONGRESS
1ST SESSION

S. 2981

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2019

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

A BILL

To reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, 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 Act of 2019”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 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. Aviation accession training programs.
 Sec. 106. Recruiting materials.
 Sec. 107. Procurement of charting and survey services.
 Sec. 108. 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. Positions of importance and responsibility.
 Sec. 304. Temporary appointments.
 Sec. 305. Officer candidates.
 Sec. 306. Procurement of personnel.
 Sec. 307. Career intermission program.

TITLE IV—SEPARATION AND RETIREMENT OF OFFICERS

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

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

4 Except as otherwise expressly provided, whenever in
 5 this Act an amendment or repeal is expressed in terms
 6 of an amendment to, or repeal of, a section or other provi-

1 sion, the reference shall be considered to be made to a
 2 section or other provision of the National Oceanic and At-
 3 mospheric Administration Commissioned Officer Corps
 4 Act of 2002 (33 U.S.C. 3001 et seq.).

5 **TITLE I—GENERAL PROVISIONS**

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

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

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

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

13 “(1) Vice admiral.

14 “(2) Rear admiral.

15 “(3) Rear admiral (lower half).

16 “(4) Captain.

17 “(5) Commander.

18 “(6) Lieutenant commander.

19 “(7) Lieutenant.

20 “(8) Lieutenant (junior grade).

21 “(9) Ensign.

22 “(b) GRADE DISTRIBUTION.—The Secretary shall
 23 prescribe, with respect to the distribution on the lineal list
 24 in grade, the percentages applicable to the grades set forth
 25 in subsection (a).

1 “(c) ANNUAL COMPUTATION OF NUMBER IN
2 GRADE.—

3 “(1) IN GENERAL.—Not less frequently than
4 once each year, the Secretary shall make a computa-
5 tion to determine the number of officers on the lin-
6 eal list authorized to be serving in each grade.

7 “(2) METHOD OF COMPUTATION.—The number
8 in each grade shall be computed by applying the ap-
9 plicable percentage to the total number of such offi-
10 cers serving on active duty on the date the computa-
11 tion is made.

12 “(3) FRACTIONS.—If a final fraction occurs in
13 computing the authorized number of officers in a
14 grade, the nearest whole number shall be taken. If
15 the fraction is $\frac{1}{2}$, the next higher whole number
16 shall be taken.

17 “(d) TEMPORARY INCREASE IN NUMBERS.—The
18 total number of officers authorized by law to be on the
19 lineal list during a fiscal year may be temporarily exceeded
20 if the average number on that list during that fiscal year
21 does not exceed the authorized number.

22 “(e) POSITIONS OF IMPORTANCE AND RESPONSI-
23 BILITY.—Officers serving in positions designated under
24 section 228(a) and officers recalled from retired status
25 shall not be counted when computing authorized strengths

1 under subsection (c) and shall not count against those
2 strengths.

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

8 **SEC. 102. RECALLED OFFICERS.**

9 (a) IN GENERAL.—Section 215 (33 U.S.C. 3005) is
10 amended to read as follows:

11 **“SEC. 215. NUMBER OF AUTHORIZED COMMISSIONED OFFI-
12 CERS.**

13 “(a) IN GENERAL.—The total number of authorized
14 commissioned officers on the lineal list of the commis-
15 sioned officer corps of the Administration shall not exceed
16 500.

17 “(b) POSITIONS OF IMPORTANCE AND RESPONSI-
18 BILITY.—Officers serving in positions designated under
19 section 228 and officers recalled from retired status or de-
20 tailed to an agency other than the Administration—

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

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

1 (b) CLERICAL AMENDMENT.—The table of contents
 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
 5 striking the item relating to section 215 and inserting the
 6 following:

“Sec. 215. Number of authorized commissioned officers.”.

7 **SEC. 103. OBLIGATED SERVICE REQUIREMENT.**

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

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

11 “(a) IN GENERAL.—

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

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

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

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

9 “(2) OBLIGATION AS DEBT TO UNITED
 10 STATES.—An obligation to reimburse the Secretary
 11 under paragraph (1) is, for all purposes, a debt
 12 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 contents
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 response courses, including establishing and op-
3 erating a basic officer training program to provide
4 initial indoctrination and maritime vocational train-
5 ing for officer candidates as well as refresher train-
6 ing, mid-career training, aviation training, and such
7 other training as the Secretary considers necessary
8 for officer development and proficiency.

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

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 contents
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. AVIATION ACCESSION TRAINING PROGRAMS.**

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. AVIATION ACCESSION TRAINING PROGRAMS.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) ADMINISTRATOR.—The term ‘Adminis-
8 trator’ means the Under Secretary of Commerce for
9 Oceans and Atmosphere and the Administrator of
10 the National Oceanic and Atmospheric Administra-
11 tion.

12 “(2) MEMBER OF THE PROGRAM.—The term
13 ‘member of the program’ means a student who is en-
14 rolled in the program.

15 “(3) PROGRAM.—The term ‘program’ means an
16 aviation accession training program of the commis-
17 sioned officer corps of the Administration estab-
18 lished pursuant to subsection (b).

19 “(b) AVIATION ACCESSION TRAINING PROGRAMS.—

20 “(1) ESTABLISHMENT AUTHORIZED.—The Ad-
21 ministrator, under regulations prescribed by the Sec-
22 retary, shall establish and maintain one or more
23 aviation accession training programs for the commis-
24 sioned officer corps of the Administration at institu-
25 tions described in paragraph (2).

1 “(2) INSTITUTIONS DESCRIBED.—An institu-
 2 tion described in this paragraph is an educational in-
 3 stitution—

4 “(A) that requests to enter into an agree-
 5 ment with the Administrator providing for the
 6 establishment of the program at the institution;

7 “(B) that has, as a part of its curriculum,
 8 a 4-year baccalaureate program of professional
 9 flight and piloting instruction that is accredited
 10 by the Aviation Accreditation Board Inter-
 11 national;

12 “(C) that is located—

13 “(i) not more than 250 miles from the
 14 National Weather Service Training Center;
 15 and

16 “(ii) in a geographic area that—

17 “(I) experiences a wide variation
 18 in climate-related activity, including
 19 frequent high winds, convective activ-
 20 ity (including tornadoes), periods of
 21 low visibility, heat, and snow and ice
 22 episodes, to provide opportunities for
 23 pilots to demonstrate skill in all
 24 weather conditions compatible with fu-

1 ture encounters during their service in
2 the commissioned officer corps; and

3 “(II) has a climate that can ac-
4 commodate both primary and ad-
5 vanced flight training activity at least
6 75 percent of the year; and

7 “(D) at which the Administrator deter-
8 mines that—

9 “(i) there will be at least 1 student
10 enrolled in the program; and

11 “(ii) the provisions of this section are
12 otherwise satisfied.

13 “(3) LIMITATIONS IN CONNECTION WITH PAR-
14 TICULAR INSTITUTIONS.—The program may not be
15 established or maintained at an institution unless—

16 “(A) the senior commissioned officer or
17 employee of the commissioned officer corps who
18 is assigned as an advisor to the program at that
19 institution is given the academic rank of ad-
20 junct professor; and

21 “(B) the institution fulfills the terms of its
22 agreement with the Administrator.

23 “(4) MEMBERSHIP IN CONNECTION WITH STA-
24 TUS AS STUDENT.—At institutions at which the pro-
25 gram is established, the membership of students in

1 the program shall be elective, as provided by State
 2 law or the authorities of the institution concerned.

3 “(c) MEMBERSHIP.—

4 “(1) ELIGIBILITY.—To be eligible for member-
 5 ship in the program an individual must—

6 “(A) be a student at an institution at
 7 which the program is established;

8 “(B) be a citizen of the United States;

9 “(C) contract in writing, with the consent
 10 of a parent or guardian if a minor, with the Ad-
 11 ministrator, to—

12 “(i) accept an appointment, if offered,
 13 as a commissioned officer in the commis-
 14 sioned officer corps of the Administration;
 15 and

16 “(ii) to serve in the commissioned offi-
 17 cer corps for not fewer than 4 years;

18 “(D) enroll in—

19 “(i) a 4-year baccalaureate program
 20 of professional flight and piloting instruc-
 21 tion; and

22 “(ii) other training or education, in-
 23 cluding basic officer training, which is pre-
 24 scribed by the Administrator as meeting

1 the preliminary requirement for admission
2 to the commissioned officer corps; and

3 “(E) execute a certificate or take an oath
4 relating to morality and conduct in such form
5 as the Administrator prescribes.

6 “(2) COMPLETION OF PROGRAM.—A member of
7 the program may be appointed as a regular officer
8 in the commissioned officer corps if the member
9 meets all requirements for appointment as such an
10 officer.

11 “(d) FINANCIAL ASSISTANCE FOR QUALIFIED MEM-
12 BERS.—

13 “(1) EXPENSES OF COURSE OF INSTRU-
14 TION.—

15 “(A) IN GENERAL.—In the case of a mem-
16 ber of the program who meets such qualifica-
17 tions as the Administrator establishes for pur-
18 poses of this subsection, the Administrator may
19 pay the expenses of the member in connection
20 with pursuit of a course of professional flight
21 and piloting instruction under the program, in-
22 cluding tuition, fees, educational materials such
23 as books, training, certifications, travel, and
24 laboratory expenses.

1 “(B) ASSISTANCE AFTER FOURTH ACADEMIC YEAR.—In the case of a member of the
2 program described in subparagraph (A) who is
3 enrolled in a course described in that subparagraph that has been approved by the Administrator and requires more than 4 academic years
4 for completion, including elective requirements
5 of the program, assistance under this subsection may also be provided during a fifth academic year or during a combination of a part
6 of a fifth academic year and summer sessions.
7

8 “(2) ROOM AND BOARD.—In the case of a
9 member eligible to receive assistance under paragraph (1), the Administrator may, in lieu of payment of all or part of such assistance, pay the room
10 and board expenses of the member, and other educational expenses, of the educational institution concerned.
11

12 “(3) FAILURE TO COMPLETE PROGRAM OR ACCEPT COMMISSION.—A member of the program who
13 receives assistance under this subsection and who
14 does not complete the course of instruction, or who
15 completes the course but declines to accept a commission in the commissioned officer corps when of-
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1 ferred, shall be subject to the repayment provisions of
2 subsection (e).

3 “(e) REPAYMENT OF UNEARNED PORTION OF FI-
4 NANCIAL ASSISTANCE WHEN CONDITIONS OF PAYMENT
5 NOT MET.—

6 “(1) IN GENERAL.—A member of the program
7 who receives or benefits from assistance under sub-
8 section (d), and whose receipt of or benefit from
9 such assistance is subject to the condition that the
10 member fully satisfy the requirements of subsection
11 (c), shall repay to the United States an amount
12 equal to the assistance received or benefitted from if
13 the member fails to fully satisfy such requirements
14 and may not receive or benefit from any unpaid
15 amounts of such assistance after the member fails to
16 satisfy such requirements, unless the Administrator
17 determines that the imposition of the repayment re-
18 quirement and the termination of payment of unpaid
19 amounts of such assistance with regard to the mem-
20 ber would be—

21 “(A) contrary to a personnel policy or
22 management objective;

23 “(B) against equity and good conscience;

24 or

1 “(C) contrary to the best interests of the
2 United States.

3 “(2) REGULATIONS.—The Administrator may
4 establish, by regulations, procedures for determining
5 the amount of the repayment required under this
6 subsection and the circumstances under which an ex-
7 ception to repayment may be granted. The Adminis-
8 trator may specify in the regulations the conditions
9 under which financial assistance to be paid to a
10 member of the program will not be made if the
11 member no longer satisfies the requirements in sub-
12 section (c) or qualifications in subsection (d) for
13 such assistance.

14 “(3) OBLIGATION AS DEBT TO UNITED
15 STATES.—An obligation to repay the United States
16 under this subsection is, for all purposes, a debt
17 owed to the United States.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
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 104(b), is further amended by inserting after the
23 item relating to section 217 the following:

 “Sec. 218. Aviation accession training programs.”.

1 **SEC. 106. RECRUITING MATERIALS.**

2 (a) IN GENERAL.—Subtitle A (33 U.S.C. 3001 et
3 seq.), as amended by section 105(a), is further amended
4 by adding at the end the following:

5 **“SEC. 219. 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 contents
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 105(b), is further amended by inserting after the
19 item relating to section 217 the following:

“Sec. 219. Use of recruiting materials for public relations.”.

20 **SEC. 107. PROCUREMENT OF CHARTING AND SURVEY SERV-**
21 **ICES.**

22 (a) IN GENERAL.—Not later than 90 days after the
23 development of the strategy required by section 1002(b)
24 of the Frank LoBiondo Coast Guard Authorization Act
25 of 2018 (Public Law 115–282; 132 Stat. 4365), the Sec-

1 retary of Commerce shall enter into not fewer than 2
 2 multi-year contracts with 1 or more private entities for
 3 the performance of charting and survey services by vessels.

4 (b) CHARTING AND SURVEYS IN THE ARCTIC.—In
 5 soliciting and engaging the services of vessels under sub-
 6 section (a), the Secretary shall particularly emphasize the
 7 need for charting and surveys in the Arctic.

8 **SEC. 108. TECHNICAL CORRECTION.**

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

12 **TITLE II—PARITY AND**
 13 **RECRUITMENT**

14 **SEC. 201. EDUCATION LOANS.**

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

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

18 “(a) AUTHORITY TO REPAY EDUCATION LOANS.—
 19 For the purpose of maintaining adequate numbers of offi-
 20 cers of the commissioned officer corps of the Administra-
 21 tion on active duty who have skills required by the com-
 22 missioned officer corps, the Secretary may repay, in the
 23 case of a person described in subsection (b), a loan that—

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

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

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

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

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

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

15 “(c) ACADEMIC AND PROFESSIONAL REQUIRE-
 16 MENTS.—One of the following academic requirements
 17 must be satisfied for purposes of determining the eligi-
 18 bility of an individual for a loan repayment under this sec-
 19 tion:

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

24 “(2) The person is enrolled as a full-time stu-
 25 dent in the final year of a course of study at an ac-

1 credited educational institution (as determined by
2 the Secretary of Education) leading to a degree in
3 a profession that will meet identified skill shortages
4 in the commissioned officer corps.

5 “(d) LOAN REPAYMENTS.—

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

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

17 “(e) ACTIVE DUTY SERVICE OBLIGATION.—

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

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

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), the length of the obligation

1 under paragraph (1) shall be determined under
2 regulations prescribed by the Secretary.

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

9 “(3) PERSONS ON ACTIVE DUTY BEFORE EN-
10 TERING INTO AGREEMENT.—The active duty service
11 obligation of persons on active duty before entering
12 into the agreement shall be served after the conclu-
13 sion of any other obligation incurred under the
14 agreement.

15 “(4) CONCURRENT COMPLETION OF SERVICE
16 OBLIGATIONS.—A service obligation under this sec-
17 tion may be completed concurrently with a service
18 obligation under section 216.

19 “(f) EFFECT OF FAILURE TO COMPLETE OBLIGA-
20 TION.—

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

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

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

9 “(1) standards for qualified loans and author-
 10 ized payees; and

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

13 (b) CLERICAL AMENDMENT.—The table of contents
 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 in-
 17 serting after the item relating to section 266 the following:

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

18 **SEC. 202. INTEREST PAYMENTS.**

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

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

23 “(a) AUTHORITY.—The Secretary may pay the inter-
 24 est and any special allowances that accrue on 1 or more

1 student loans of an eligible officer, in accordance with this
2 section.

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

5 “(1) is serving on active duty;

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

8 “(3) is the debtor on 1 or more unpaid loans
9 described in subsection (c); and

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

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

14 “(1) A loan made, insured, or guaranteed under
15 part B of title IV of the Higher Education Act of
16 1965 (20 U.S.C. 1071 et seq.).

17 “(2) A loan made under part D of such title
18 (20 U.S.C. 1087a et seq.).

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

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

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

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

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

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

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

18 “(B) to reimburse the Secretary of Edu-
 19 cation for any reasonable administrative costs
 20 incurred by the Secretary in coordinating the
 21 program under this section with the administra-
 22 tion of the student loan programs under parts
 23 B, D, and E of title IV of the Higher Edu-
 24 cation Act of 1965 (20 U.S.C. 1071 et seq.,
 25 1087a et seq., 1087aa et seq.).

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

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 428(o) of the Higher Education Act
 7 of 1965 (20 U.S.C. 1078(o)) is 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 268 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 (2) Sections 455(l) and 464(j) of the Higher
 22 Education Act of 1965 (20 U.S.C. 1087e(l) and
 23 1087dd(j)) are each amended—

24 (A) by striking the subsection heading and
 25 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”.

(c) CLERICAL AMENDMENT.—The table of contents
in section 1 of the Act entitled “An Act to authorize the
Hydrographic Services Improvement Act of 1998, and for
other purposes” (Public Law 107–372), as amended by
section 201(b), 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), is further amended
by adding at the end the following:

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

“(a) AUTHORITY TO PROVIDE FINANCIAL ASSIST-
ANCE.—For the purpose of maintaining adequate numbers

1 of officers of the commissioned officer corps of the Admin-
 2 istration on active duty, the Secretary may provide finan-
 3 cial assistance to a person described in subsection (b) for
 4 expenses of the person while the person is pursuing on
 5 a full-time basis at an accredited educational institution
 6 (as determined by the Secretary of Education) a program
 7 of education approved by the Secretary that leads to—

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

10 “(2) a postbaccalaureate degree.

11 “(b) ELIGIBLE PERSONS.—

12 “(1) IN GENERAL.—A person is eligible to ob-
 13 tain financial assistance under subsection (a) if the
 14 person—

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

19 “(B) meets all of the requirements for ac-
 20 ceptance into the commissioned officer corps of
 21 the Administration except for the completion of
 22 a baccalaureate degree; and

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

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

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

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

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

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

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

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

19 “(2) The cost of educational materials.

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

23 “(4) Such other expenses as the Secretary con-
 24 siders appropriate.

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

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

11 “(f) SUBSISTENCE ALLOWANCE.—

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

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

23 “(g) INITIAL CLOTHING ALLOWANCE.—

24 “(1) TRAINING.—The Secretary may prescribe
 25 a sum which shall be credited to each person who re-

ceives 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 en-

1 tered into under subsection (b)(1)(C) to reimburse
 2 the Secretary in an amount that bears the same
 3 ratio to the total costs of the assistance provided to
 4 that person as the unserved portion of active duty
 5 bears to the total period of active duty the officer
 6 agreed to serve under the agreement.

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

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

15 “(B) is—

16 “(i) not physically qualified for ap-
 17 pointment; and

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

24 “(4) OBLIGATION AS DEBT TO UNITED
 25 STATES.—An obligation to reimburse the Secretary

1 imposed under paragraph (2) is, for all purposes, a
2 debt owed to the United States.

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

10 “(i) REGULATIONS.—The Secretary may prescribe
11 such regulations and orders as the Secretary considers ap-
12 propriate to carry out this section.

13 “(j) CONCURRENT COMPLETION OF SERVICE OBLI-
14 GATIONS.—A service obligation under this section may be
15 completed concurrently with a service obligation under
16 section 216.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 in section 1 of the Act entitled “An Act to authorize the
19 Hydrographic Services Improvement Act of 1998, and for
20 other purposes” (Public Law 107–372), as amended by
21 section 202(c), is further amended by inserting after the
22 item relating to section 268 the following:

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

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

24 (a) IN GENERAL.—Each fiscal year, beginning with
25 the fiscal year in which this Act is enacted, the Secretary

1 of Commerce shall ensure that the total amount expended
2 by the Secretary under section 267 of the National Oce-
3 anic and Atmospheric Administration Commissioned Offi-
4 cer Corps Act of 2002 (as added by section 201(a)), sec-
5 tion 268 of such Act (as added by section 202(a)), and
6 section 269 of such Act (as added by section 203(a)) does
7 not exceed the amount by which—

8 (1) the total amount the Secretary would pay in
9 that fiscal year to officer candidates under section
10 203(f)(1) of title 37, United States Code (as added
11 by section 305(d)), if such section entitled officer
12 candidates to pay at monthly rates equal to the
13 basic pay of a commissioned officer in the pay grade
14 O–1 with less than 2 years of service, exceeds

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

18 (b) OFFICER CANDIDATE DEFINED.—In this section,
19 the term “officer candidate” has the meaning given the
20 term in paragraph (4) of section 212(b) of the National
21 Oceanic and Atmospheric Administration Commissioned
22 Officer Corps Act of 2002 (33 U.S.C. 3002), as added
23 by section 305(c).

1 **SEC. 205. APPLICABILITY OF CERTAIN PROVISIONS OF**
2 **TITLE 10, UNITED STATES CODE, AND EXTEN-**
3 **SION OF CERTAIN AUTHORITIES APPLICABLE**
4 **TO MEMBERS OF THE ARMED FORCES TO**
5 **COMMISSIONED OFFICER CORPS.**

6 (a) APPLICABILITY OF CERTAIN PROVISIONS OF
7 TITLE 10.—Section 261(a) (33 U.S.C. 3071(a)) is amend-
8 ed—

9 (1) by redesignating paragraphs (13) through
10 (16) as paragraphs (22) through (25), respectively;

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

13 (3) by redesignating paragraphs (4) through
14 (6) as paragraphs (8) through (10), respectively;

15 (4) by inserting after paragraph (3) the fol-
16 lowing:

17 “(4) Section 771, relating to unauthorized
18 wearing of uniforms.

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

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

23 “(7) Section 1031, relating to administration of
24 oaths.”;

25 (5) by inserting after paragraph (10), as redes-
26 ignated, the following:

1 “(11) Section 1074n, relating to annual mental
2 health assessments.

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

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

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

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

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

15 (b) EXTENSION OF CERTAIN AUTHORITIES.—

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

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

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

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

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

7 (B) by adding at the end the following new
8 subsection:

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

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

20 (A) in subsection (a)—

21 (i) by inserting “or the commissioned
22 officer corps of the National Oceanic and
23 Atmospheric Administration” after “in the
24 case of the Navy”; and

1 (ii) by striking “other armed forces”
 2 and inserting “other uniformed services”;
 3 and
 4 (B) in subsection (b)(1), in the matter be-
 5 fore subparagraph (A), by inserting “or the
 6 Secretary of Commerce, as applicable,” after
 7 “the Secretary of Defense”.

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

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

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

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

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

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

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

4 “(4) Section 415, relating to initial uniform al-
5 lowances.

6 “(5) Section 488, relating to allowances for re-
7 cruiting expenses.

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

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

17 (b) PERSONAL MONEY ALLOWANCE.—Section
18 414(a)(2) of title 37, United States Code, is amended by
19 inserting “or the director of the commissioned officer
20 corps of the National Oceanic and Atmospheric Adminis-
21 tration” after “Health Service”.

22 (c) CLERICAL AMENDMENT.—The table of contents
23 in section 1 of the Act entitled “An Act to authorize the
24 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 261 the following:

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

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

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

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

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

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

16 (b) CONFORMING AMENDMENT.—Subsection (b) of
 17 such section is amended by adding at the end the fol-
 18 lowing: “For purposes of paragraph (8) of subsection (a),
 19 the term ‘Inspector General’ in section 1034 of such title
 20 10 shall mean the Inspector General of the Department
 21 of Commerce.”.

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

1 “(c) REGULATIONS REGARDING PROTECTED COM-
 2 MUNICATIONS AND PROHIBITION OF RETALIATORY PER-
 3 SONNEL ACTIONS.—The Secretary may prescribe regula-
 4 tions to carry out the application of section 1034 of title
 5 10, United States Code, to the commissioned officer corps
 6 of the Administration, including by prescribing such ad-
 7 ministrative procedures for investigation and appeal with-
 8 in the commissioned officer corps as the Secretary con-
 9 siders appropriate.”.

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

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

14 (1) in paragraph (1), by inserting “and mem-
 15 bers of the commissioned officer corps of the Na-
 16 tional Oceanic and Atmospheric Administration (or
 17 its predecessor organization the Coast and Geodetic
 18 Survey) separated from such uniformed service”
 19 after “separated from the armed forces”;

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

22 (3) in paragraph (4), by inserting “and mem-
 23 bers of the commissioned officer corps of the Na-
 24 tional Oceanic and Atmospheric Administration (or
 25 its predecessor organization the Coast and Geodetic

1 Survey) separated from such uniformed service”
 2 after “separated from the armed forces”.

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

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

8 **SEC. 210. TREATMENT OF COMMISSION IN COMMISSIONED**
 9 **OFFICER CORPS FOR PURPOSES OF CERTAIN**
 10 **HIRING DECISIONS.**

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

14 **“SEC. 269A. TREATMENT OF COMMISSION IN COMMIS-**
 15 **SIONED OFFICER CORPS AS EMPLOYMENT IN**
 16 **ADMINISTRATION FOR PURPOSES OF CER-**
 17 **TAIN HIRING DECISIONS.**

18 “(a) IN GENERAL.—In any case in which the Sec-
 19 retary accepts an application for a position of employment
 20 with the Administration and limits consideration of appli-
 21 cations for such position to applications submitted by indi-
 22 viduals serving in a career or career-conditional position
 23 in the competitive service within the Administration, the
 24 Secretary shall deem an officer who has served as an offi-
 25 cer in the commissioned officer corps for at least 3 years

1 to be serving in a career or career-conditional position in
 2 the competitive service within the Administration for pur-
 3 poses of such limitation.

4 “(b) CAREER APPOINTMENTS.—If the Secretary se-
 5 lects an application submitted by an officer described in
 6 subsection (a) for a position described in such subsection,
 7 the Secretary shall give such officer a career or career-
 8 conditional appointment in the competitive service, as ap-
 9 propriate.

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

13 (b) CLERICAL AMENDMENT.—The table of contents
 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 in-
 17 serting after the item relating to section 269, as added
 18 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.”.

19 **TITLE III—APPOINTMENTS AND** 20 **PROMOTION OF OFFICERS**

21 **SEC. 301. APPOINTMENTS.**

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

1 **“SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINT-**
2 **MENTS.**

3 “(a) ORIGINAL APPOINTMENTS.—

4 “(1) GRADES.—

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

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

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

13 “(B) APPOINTMENT OF OFFICER CAN-
14 DIDATES.—

15 “(i) LIMITATION ON GRADE.—An
16 original appointment of an officer can-
17 didate, upon graduation from the basic of-
18 ficer training program of the commissioned
19 officer corps of the Administration, may
20 not be made in any other grade than en-
21 sign.

22 “(ii) RANK.—Officer candidates re-
23 ceiving appointments as ensigns upon
24 graduation from basic officer training pro-
25 gram shall take rank according to their

1 proficiency as shown by the order of their
2 merit at date of graduation.

3 “(2) SOURCE OF APPOINTMENTS.—An original
4 appointment may be made from among the fol-
5 lowing:

6 “(A) Graduates of the basic officer train-
7 ing program of the commissioned officer corps
8 of the Administration.

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

14 “(C) Graduates of the maritime academies
15 of the States who—

16 “(i) otherwise meet the academic
17 standards for enrollment in the training
18 program described in subparagraph (A);

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

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

1 “(D) Licensed officers of the United States
2 merchant marine who have served 2 or more
3 years aboard a vessel of the United States in
4 the capacity of a licensed officer, who otherwise
5 meet the academic standards for enrollment in
6 the training program described in subparagraph
7 (A).

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

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

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

14 “(ii) Great Lakes Maritime Academy,
15 Traverse City, Michigan.

16 “(iii) Maine Maritime Academy,
17 Castine, Maine.

18 “(iv) Massachusetts Maritime Acad-
19 emy, Buzzards Bay, Massachusetts.

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

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

1 “(B) MILITARY SERVICE ACADEMIES OF
 2 THE UNITED STATES.—The term ‘military serv-
 3 ice academies of the United States’ means the
 4 following:

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

7 “(ii) The United States Naval Acad-
 8 emy, Annapolis, Maryland.

9 “(iii) The United States Air Force
 10 Academy, Colorado Springs, Colorado.

11 “(iv) The United States Coast Guard
 12 Academy, New London, Connecticut.

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

15 “(b) REAPPOINTMENT.—

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

21 “(2) REAPPOINTMENTS TO HIGHER GRADES.—

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

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

7 “(d) PRECEDENCE OF APPOINTEES.—Appointees
8 under this section shall take precedence in the grade to
9 which appointed in accordance with the dates of their com-
10 missions as commissioned officers in such grade. Ap-
11 pointees whose dates of commission are the same shall
12 take precedence with each other as the Secretary shall de-
13 termine.

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

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

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

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

4 (b) CLERICAL AMENDMENT.—The table of contents
5 in section 1 of the Act entitled “An Act to authorize the
6 Hydrographic Services Improvement Act of 1998, and for
7 other purposes” (Public Law 107–372) is amended by
8 striking the item relating to section 221 and inserting the
9 following:

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

10 **SEC. 302. PERSONNEL BOARDS.**

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

13 **“SEC. 222. PERSONNEL BOARDS.**

14 “(a) CONVENING.—Not less frequently than once
15 each year and at such other times as the Secretary deter-
16 mines necessary, the Secretary shall convene a personnel
17 board.

18 “(b) MEMBERSHIP.—

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

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

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

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

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

10 “(2) make selections and recommendations to
11 the Secretary and the President for the appoint-
12 ment, promotion, involuntary separation, continu-
13 ation, and involuntary retirement of officers in the
14 commissioned officer corps of the Administration as
15 prescribed in this title.

16 “(d) ACTION ON RECOMMENDATIONS NOT ACCEPT-
17 ABLE.—If any recommendation by a board convened
18 under subsection (a) is not accepted by the Secretary or
19 the President, the board shall make such further rec-
20 ommendations as the Secretary or the President considers
21 appropriate.

22 “(e) AUTHORITY FOR OFFICERS TO OPT OUT OF
23 PROMOTION CONSIDERATION.—

24 “(1) IN GENERAL.—The Director of the Na-
25 tional Oceanic and Atmospheric Administration

1 Commissioned Officer Corps may provide that an of-
2 ficer, upon the officer's request and with the ap-
3 proval of the Director, be excluded from consider-
4 ation for promotion by a personnel board convened
5 under this section.

6 “(2) APPROVAL.—The Director shall approve a
7 request made by an officer under subsection (a) only
8 if—

9 “(A) the basis for the request is to allow
10 the officer to complete a broadening assign-
11 ment, advanced education, another assignment
12 of significant value to the Administration, a ca-
13 reer progression requirement delayed by the as-
14 signment or education, or a qualifying personal
15 or professional circumstance, as determined by
16 the Director;

17 “(B) the Director determines the exclusion
18 from consideration is in the best interest of the
19 Administration; and

20 “(C) the officer has not previously failed
21 selection for promotion to the grade for which
22 the officer requests the exclusion from consider-
23 ation.”.

1 **SEC. 303. POSITIONS OF IMPORTANCE AND RESPONSIBILITY.**
 2 **BILITY.**

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

4 (1) in subsection (c)—

5 (A) in the first sentence, by striking “The
 6 Secretary shall designate one position under
 7 this section” and inserting “The President shall
 8 designate one position”; and

9 (B) in the second sentence, by striking
 10 “That position shall be filled by” and inserting
 11 “The President shall fill that position by ap-
 12 pointing, by and with the advice and consent of
 13 the Senate,”;

14 (2) in subsection (d)(2), by inserting “or imme-
 15 diately beginning a period of terminal leave” after
 16 “for which a higher grade is designated”;

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

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

24 (4) in subsection (f), by inserting “or in a pe-
 25 riod of annual leave used at the end of the appoint-
 26 ment” after “serving in that grade”.

1 **SEC. 304. TEMPORARY APPOINTMENTS.**

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

4 **“SEC. 229. TEMPORARY APPOINTMENTS.**

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

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

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

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

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

1 other purposes” (Public Law 107–372) is amended by
 2 striking the item relating to section 229 and inserting the
 3 following:

“Sec. 229. Temporary appointments.”.

4 **SEC. 305. OFFICER CANDIDATES.**

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

7 **“SEC. 234. OFFICER CANDIDATES.**

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

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

18 “(c) DISMISSAL.—The Secretary may dismiss from
 19 the basic officer training program of the Administration
 20 any officer candidate who, during the officer candidate’s
 21 term as an officer candidate, the Secretary considers un-
 22 satisfactory in either academics or conduct, or not adapted
 23 for a career in the commissioned officer corps of the Ad-
 24 ministration. Officer candidates shall be subject to rules
 25 governing discipline prescribed by the Director of the Na-

1 tional Oceanic and Atmospheric Administration Commis-
 2 sioned Officer Corps.

3 “(d) AGREEMENT.—

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

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

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

15 “(B) That upon graduation from such pro-
 16 gram, the officer candidate—

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

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

22 “(e) REGULATIONS.—The Secretary shall prescribe
 23 regulations to carry out this section. Such regulations
 24 shall include—

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

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

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

10 (b) CLERICAL AMENDMENT.—The table of contents
 11 in section 1 of the Act entitled “An Act to authorize the
 12 Hydrographic Services Improvement Act of 1998, and for
 13 other purposes” (Public Law 107–372) is amended by in-
 14 serting after the item relating to section 233 the following:

“Sec. 234. Officer candidates.”.

15 (c) OFFICER CANDIDATE DEFINED.—Section 212(b)
 16 (33 U.S.C. 3002(b)) is amended—

17 (1) by redesignating paragraphs (4) through

18 (6) as paragraphs (5) through (7), respectively; and

19 (2) by inserting after paragraph (3) the fol-
 20 lowing:

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

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

4 “(f)(1) An officer candidate enrolled in the basic offi-
5 cer training program of the commissioned officer corps of
6 the National Oceanic and Atmospheric Administration is
7 entitled, while participating in such program, to monthly
8 officer candidate pay at monthly rates equal to the basic
9 pay of an enlisted member in the pay grade E–5 with less
10 than 2 years of service.

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

17 **SEC. 306. PROCUREMENT OF PERSONNEL.**

18 (a) IN GENERAL.—Subtitle B (33 U.S.C. 3021 et
19 seq.), as amended by section 305(a), is further amended
20 by adding at the end the following:

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

22 “The Secretary may make such expenditures as the
23 Secretary considers necessary in order to obtain recruits
24 for the commissioned officer corps of the Administration,
25 including advertising.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
 2 in section 1 of the Act entitled “An Act to authorize the
 3 Hydrographic Services Improvement Act of 1998, and for
 4 other purposes” (Public Law 107–372), as amended by
 5 section 305(b), is further amended by inserting after the
 6 item relating to section 234 the following:

“235. Procurement of personnel.”.

7 **SEC. 307. CAREER INTERMISSION PROGRAM.**

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

11 **“SEC. 236. CAREER FLEXIBILITY TO ENHANCE RETENTION**
 12 **OF OFFICERS.**

13 “(a) PROGRAMS AUTHORIZED.—The Secretary may
 14 carry out a program under which officers may be inac-
 15 tivated from active duty in order to meet personal or pro-
 16 fessional needs and returned to active duty at the end of
 17 such period of inactivation from active duty.

18 “(b) PERIOD OF INACTIVATION FROM ACTIVE DUTY;
 19 EFFECT OF INACTIVATION.—

20 “(1) IN GENERAL.—The period of inactivation
 21 from active duty under a program under this section
 22 of an officer participating in the program shall be
 23 such period as the Secretary shall specify in the
 24 agreement of the officer under subsection (c), except
 25 that such period may not exceed 3 years.

1 “(2) EXCLUSION FROM RETIREMENT.—Any pe-
2 riod of participation of an officer in a program
3 under this section shall not count toward eligibility
4 for retirement or computation of retired pay under
5 subtitle C.

6 “(c) AGREEMENT.—Each officer who participates in
7 a program under this section shall enter into a written
8 agreement with the Secretary under which that officer
9 shall agree as follows:

10 “(1) To undergo during the period of the inac-
11 tivation of the officer from active duty under the
12 program such inactive duty training as the Director
13 of the National Oceanic and Atmospheric Adminis-
14 tration Commissioned Officer Corps shall require in
15 order to ensure that the officer retains proficiency,
16 at a level determined by the Director to be suffi-
17 cient, in the technical skills, professional qualifica-
18 tions, and physical readiness of the officer during
19 the inactivation of the officer from active duty.

20 “(2) Following completion of the period of the
21 inactivation of the officer from active duty under the
22 program, to serve 2 months on active duty for each
23 month of the period of the inactivation of the officer
24 from active duty under the program.

1 “(d) CONDITIONS OF RELEASE.—The Secretary
2 shall—

3 “(1) prescribe regulations specifying the guide-
4 lines regarding the conditions of release that must
5 be considered and addressed in the agreement re-
6 quired by subsection (c); and

7 “(2) at a minimum, prescribe the procedures
8 and standards to be used to instruct an officer on
9 the obligations to be assumed by the officer under
10 paragraph (2) of such subsection while the officer is
11 released from active duty.

12 “(e) ORDER TO ACTIVE DUTY.—Under regulations
13 prescribed by the Secretary, an officer participating in a
14 program under this section may, in the discretion of the
15 Secretary, be required to terminate participation in the
16 program and be ordered to active duty.

17 “(f) PAY AND ALLOWANCES.—

18 “(1) BASIC PAY.—During each month of par-
19 ticipation in a program under this section, an officer
20 who participates in the program shall be paid basic
21 pay in an amount equal to two-thirtieths of the
22 amount of monthly basic pay to which the officer
23 would otherwise be entitled under section 204 of title
24 37, United States Code, as a member of the uni-
25 formed services on active duty in the grade and

1 years of service of the officer when the officer com-
2 mences participation in the program.

3 “(2) SPECIAL OR INCENTIVE PAY OR BONUS.—

4 “(A) PROHIBITION.—An officer who par-
5 ticipates in a program under this section shall
6 not, while participating in the program, be paid
7 any special or incentive pay or bonus to which
8 the officer is otherwise entitled under an agree-
9 ment under chapter 5 of title 37, United States
10 Code, that is in force when the officer com-
11 mences participation in the program.

12 “(B) NOT TREATED AS FAILURE TO PER-
13 FORM SERVICES.—The inactivation from active
14 duty of an officer participating in a program
15 under this section shall not be treated as a fail-
16 ure of the officer to perform any period of serv-
17 ice required of the officer in connection with an
18 agreement for a special or incentive pay or
19 bonus under chapter 5 of title 37, United
20 States Code, that is in force when the officer
21 commences participation in the program.

22 “(3) RETURN TO ACTIVE DUTY.—

23 “(A) SPECIAL OR INCENTIVE PAY OR
24 BONUS.—Subject to subparagraph (B), upon
25 the return of an officer to active duty after

1 completion by the officer of participation in a
2 program under this section—

3 “(i) any agreement entered into by
4 the officer under chapter 5 of title 37,
5 United States Code, for the payment of a
6 special or incentive pay or bonus that was
7 in force when the officer commenced par-
8 ticipation in the program shall be revived,
9 with the term of such agreement after re-
10 vival being the period of the agreement re-
11 maining to run when the officer com-
12 menced participation in the program; and

13 “(ii) any special or incentive pay or
14 bonus shall be payable to the officer in ac-
15 cordance with the terms of the agreement
16 concerned for the term specified in clause
17 (i).

18 “(B) LIMITATION.—

19 “(i) IN GENERAL.—Subparagraph (A)
20 shall not apply to any special or incentive
21 pay or bonus otherwise covered by that
22 subparagraph with respect to an officer if,
23 at the time of the return of the officer to
24 active duty as described in that subpara-
25 graph—

1 “(I) such pay or bonus is no
2 longer authorized by law; or

3 “(II) the officer does not satisfy
4 eligibility criteria for such pay or
5 bonus as in effect at the time of the
6 return of the officer to active duty.

7 “(ii) PAY OR BONUS CEASES BEING
8 AUTHORIZED.—Subparagraph (A) shall
9 cease to apply to any special or incentive
10 pay or bonus otherwise covered by that
11 subparagraph with respect to an officer if,
12 during the term of the revived agreement
13 of the officer under subparagraph (A)(i),
14 such pay or bonus ceases being authorized
15 by law.

16 “(C) REPAYMENT.—An officer who is in-
17 eligible for payment of a special or incentive
18 pay or bonus otherwise covered by this para-
19 graph by reason of subparagraph (B)(i)(II)
20 shall be subject to the requirements for repay-
21 ment of such pay or bonus in accordance with
22 the terms of the applicable agreement of the of-
23 ficer under chapter 5 of title 37, United States
24 Code.

1 “(D) REQUIRED SERVICE IS ADDI-
2 TIONAL.—Any service required of an officer
3 under an agreement covered by this paragraph
4 after the officer returns to active duty as de-
5 scribed in subparagraph (A) shall be in addition
6 to any service required of the officer under an
7 agreement under subsection (c).

8 “(4) TRAVEL AND TRANSPORTATION ALLOW-
9 ANCE.—

10 “(A) IN GENERAL.—Subject to subpara-
11 graph (B), an officer who participates in a pro-
12 gram under this section is entitled, while par-
13 ticipating in the program, to the travel and
14 transportation allowances authorized by section
15 474 of title 37, United States Code, for—

16 “(i) travel performed from the resi-
17 dence of the officer, at the time of release
18 from active duty to participate in the pro-
19 gram, to the location in the United States
20 designated by the officer as the officer’s
21 residence during the period of participation
22 in the program; and

23 “(ii) travel performed to the residence
24 of the officer upon return to active duty at

1 the end of the participation of the officer
2 in the program.

3 “(B) SINGLE RESIDENCE.—An allowance
4 is payable under this paragraph only with re-
5 spect to travel of an officer to and from a single
6 residence.

7 “(5) LEAVE BALANCE.—An officer who partici-
8 pates in a program under this section is entitled to
9 carry forward the leave balance existing as of the
10 day on which the officer begins participation and ac-
11 cumulated in accordance with section 701 of title 10,
12 but not to exceed 60 days.

13 “(g) PROMOTION.—

14 “(1) IN GENERAL.—An officer participating in
15 a program under this section shall not, while partici-
16 pating in the program, be eligible for consideration
17 for promotion under subtitle B.

18 “(2) RETURN TO SERVICE.—Upon the return of
19 an officer to active duty after completion by the offi-
20 cer of participation in a program under this sec-
21 tion—

22 “(A) the Secretary may adjust the date of
23 rank of the officer in such manner as the Sec-
24 retary shall prescribe in regulations for pur-
25 poses of this section; and

1 “(B) the officer shall be eligible for consid-
 2 eration for promotion when officers of the same
 3 competitive category, grade, and seniority are
 4 eligible for consideration for promotion.

5 “(h) CONTINUED ENTITLEMENTS.—An officer par-
 6 ticipating in a program under this section shall, while par-
 7 ticipating in the program, be treated as a member of the
 8 uniformed services on active duty for a period of more
 9 than 30 days for purposes of—

10 “(1) the entitlement of the officer and of the
 11 dependents of the officer to medical and dental care
 12 under the provisions of chapter 55 of title 10; and

13 “(2) retirement or separation for physical dis-
 14 ability under the provisions of subtitle C.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
 16 in section 1 of the Act entitled “An Act to authorize the
 17 Hydrographic Services Improvement Act of 1998, and for
 18 other purposes” (Public Law 107–372), as amended by
 19 section 306(b), is further amended by inserting after the
 20 item relating to section 235 the following:

“Sec. 236. Career flexibility to enhance retention of officers.”.

21 **TITLE IV—SEPARATION AND** 22 **RETIREMENT OF OFFICERS**

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

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

1 “(d) DEFERMENT OF RETIREMENT OR SEPARATION
2 FOR MEDICAL REASONS.—

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

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

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

22 **SEC. 402. SEPARATION PAY.**

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

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

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

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

○