

Calendar No. 561

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 116-273

NATIONAL OCEANIC AND ATMOSPHERIC AD-
MINISTRATION COMMISSIONED OFFICER
CORPS AMENDMENTS ACT OF 2019

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2981



SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2020.—Ordered to be
printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

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NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS AMENDMENTS ACT OF 2019

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2020.—Ordered to be printed

Mr. WICKER, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 2981]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2981) to reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 2981, the National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2019, is to reauthorize both the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 and the Hydrographic Services Improvement Act of 1998.

BACKGROUND AND NEEDS

The National Oceanic and Atmospheric Administration Commissioned Officer Corps (NOAA Corps) is one of the seven uniformed services of the United States.¹ The 321 officers of the NOAA Corps make up only about 3 percent of NOAA's personnel, but as the op-

¹The United States has seven uniformed services, of which five are armed services (Army, Navy, Air Force, Marines, and the Coast Guard) and two which are not armed (the U.S. Public Health Service and the NOAA Corps).

erators of NOAA's ship and aircraft fleet, they are critical to the Administration. Their unique combination of scientific and operational expertise coupled with a high degree of flexibility and deployability allow them to serve throughout the Administration's line and staff offices and support nearly all of NOAA's programs and missions.

Like other uniformed services, Corps officers spend much of their careers away from family and friends, operating NOAA ships and aircraft that are frequently deployed up to 8 or 9 months a year.² Corps officers also work regularly with other services, commanding Navy underwater unmanned vehicle platoons, training with Navy scientific aircraft squadrons, and deploying on United States Coast Guard (USCG) cutters. The Corps and the USCG now have joint Officer Candidate School classes.

Yet unlike other uniformed services, or even other Federal agency employees, time in the NOAA Corps is not considered a Federal service for purposes of being hired into competitive service positions elsewhere in the Federal Government. As a result, while the demand for NOAA Corps officers is increasing, the capacity of the Corps is not increasing, and workplace benefits are less desirable than in other career tracks. Reforming the Corps' authority to create parity with other Federal careers is necessary. This legislation aims to update the Corps' statutory structure to address modern workforce requirements.

SUMMARY OF PROVISIONS

S. 2981, the National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2019, would include many provisions from previously Senate-passed NOAA Corps reauthorizations legislation, including the following:

- Giving the Corps new tools to improve recruiting and retention to improve diversity in the Corps and allow for retention of highly skilled Corps officers, especially female officers, including the following:
- A pre-commissioning educational assistance program for students who agree to serve in the NOAA Corps (similar to a USCG pre-commissioning program);
- Authority for an education loan repayment program for students with critical skills;
- An education loan interest repayment program for officers in the first 3 years of active duty; and
- Authorizes a sabbatical program modeled on a successful USCG program to allow officers to leave the service (and receive no pay or benefits) for a few years for personal reasons, such as starting a family.
- More closely aligning the Corps with other services, improving the ability to both support NOAA missions and be a useful national asset, including the following:
- Creation of a new officer candidate rank for officers entering duty for a period of initial training;
- A requirement for officers to meet USCG physical fitness standards; and

²While the Navy and Coast Guard usually have a maximum operating tempo of 180 days a year, NOAA ships typically are deployed up to 240 days a year (when fully funded).

- The authority to require a period of obligated service after initial training.

LEGISLATIVE HISTORY

S. 2981 was introduced on December 4, 2019, by Senator Sullivan (for himself and Senator Schatz) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. On December 11, 2019, the Committee met in open Executive Session and, by voice vote, ordered S. 2981 reported favorably with an amendment (in the nature of a substitute).

Bills reauthorizing the NOAA Corps and aligning both the officers' obligations and benefits with officers in other services have been passed by the Senate in the 112th, 113th, and 114th Congresses. Specifically, the NOAA Corps Amendments Act of 2012 passed the Senate by unanimous consent in the 112th Congress (S. 2388), the NOAA Corps Amendments Act of 2013 passed the Senate by unanimous consent in the 113th Congress (S. 1068), and the NOAA Sexual Harassment and Assault Prevention Act passed the Senate by unanimous consent in the 114th Congress as part of the Maritime Administration Authorization and Enhancement Act for Fiscal Year 2017 (S. 2829). The provisions in S. 2829 related to reducing the number of, and improving response to, cases of sexual harassment and assault at NOAA became law as part of the National Defense Reauthorization Act of 2017, but the remaining provisions were not incorporated.³

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

At a Glance			
S. 2981, National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2019			
As ordered reported by the Senate Committee on Commerce, Science, and Transportation on December 11, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	10	29
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	10	29
Spending Subject to Appropriation (Outlays)	0	1	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

³Public Law 114–328.

The bill would

- Waive the Antideficiency Act to allow the National Oceanic and Atmospheric Administration (NOAA) to enter into long-term leases and colocation agreements with governmental and nonprofit entities
- Establish service requirements for NOAA commissioned officers and require officers who fail to meet those requirements to reimburse NOAA for training costs
- Authorize NOAA to pay some education expenses for commissioned officers or people committing to serve as commissioned officers after completing a college degree

Estimated budgetary effects would primarily stem from

- The costs of leases and colocation agreements
- The costs of education assistance for certain commissioned officers
- The amount of reimbursements received from NOAA officers who failed to meet service requirements

Areas of significant uncertainty include

- Estimating the number and timing of leases and colocation agreements NOAA would enter into under the bill

Bill summary: S. 2981 would authorize the National Oceanic and Atmospheric Administration (NOAA) to enter into long-term leases and colocation agreements with government and nonprofit entities without a fiscal year limitation. The bill also would modify personnel policies for NOAA’s commissioned officer corps.

Estimated Federal cost: The estimated budgetary effect of S. 2981 is shown in Table 1. The costs of the legislation fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 2981

	By fiscal year, millions of dollars—												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020–2025	2020–2030
	Increases in Direct Spending												
Estimated Budget Authority ...	0	4	4	4	4	4	4	4	4	4	4	20	40
Estimated Outlays	0	0	1	2	3	4	4	4	4	4	4	10	29

Components may not sum to totals because of rounding.
Implementing the bill also would increase spending subject to appropriation by less than \$500,000 annually and by a total of \$1 million over the 2021–2025 period.

Basis of estimate: For this estimate, CBO assumes that S. 2981 will be enacted early in fiscal year 2021.

Direct spending: CBO estimates that enacting S. 2981 would increase direct spending by \$29 million over the 2020–2030 period.

Lease and Colocation Agreements: Section 502 would waive the Antideficiency Act, allowing NOAA to enter into noncompetitive leases or colocation agreements without regard to the availability of appropriations.¹ The section also would authorize NOAA to enter into such leases or agreements with state or local governments or nonprofit organizations, including universities, for up to 30 years.

¹ Colocation agreements establish a relationship between a tenant and a customer of the tenant engaging in collaborative activities in the tenant’s space. In this case, NOAA could be the tenant or the customer, although in most cases CBO expects that NOAA would be the customer.

Under current law, NOAA uses more than 90 buildings around the country, including office buildings, warehouses, laboratories, and data centers, which are leased at an average cost of about \$160,000 annually by the General Services Administration (GSA). NOAA also partners with universities to complete scientific research. Using information from NOAA, CBO expects that the agency would use the authority provided under S. 2981 to enter into leases or colocation agreements with partners at university facilities to complete long-term, collaborative research.

Based on similar authority provided to other agencies, CBO expects that some leases and colocation agreements would contain terms for NOAA's university partners or third parties to build or renovate facilities for specialized uses. Some of those projects would be considered governmental because they would be largely subject to NOAA's control and because NOAA would be a major user of the services supported or provided by those facilities. Thus, in CBO's view, transactions related to development and construction under that authority should be considered governmental with their costs recorded in the budget. Furthermore, by waiving the Antideficiency Act with respect to entering into agreements, spending for those activities would not be limited by annual appropriations; thus, those costs would be considered direct spending.

Using information from GSA on the costs of NOAA's current leases, CBO estimates that the lifetime cost of each lease or colocation agreement would be \$5 million, on average. Using information about NOAA facilities that currently house collaborative research and that require physical improvements, CBO expects that under the bill NOAA would enter into eight such agreements over the 2021–2030 period. For this estimate, the budget authority for those agreements is distributed evenly across the 2021–2030 period because CBO cannot predict when NOAA would enter into those agreements. CBO estimates that spending on the additional leases and colocation agreements would total \$30 million over the 2020–2030 period. Estimated outlays follow spending patterns for similar activities.

Service Requirements for the Commissioned Officer Corps: S. 2981 would establish requirements for people enlisting in NOAA's commissioned officer corps. Under the bill, any officer who fails to meet those requirements would be obligated to repay NOAA an amount equal to the costs incurred by NOAA for training plus any financial assistance for education expenses that the officer received. Using information from NOAA on the cost of such training, CBO estimates that such repayments would total about \$1 million over the 2020–2030 period.

Spending Subject to Appropriation: The bill would authorize NOAA to pay some expenses related to the costs of education for people serving in the commissioned officer corps or who commit to serve after completing a college degree. Using information about the number of officer candidates recruited each year, CBO expects that around 30 current and former students would receive such assistance over the 2021–2025 period. On the basis of information from the Department of Education on the costs of postsecondary education that would be eligible for assistance under the bill, the current subsistence allowances provided by other uniformed services, and anticipated inflation, CBO estimates that implementing

S. 2981 would cost \$1 million over the 2020–2025 period. Such spending would be subject to the availability of appropriated funds.

Uncertainty: CBO’s estimate of direct spending under S. 2981 is uncertain because both the number and the timing of lease and colocation agreements that NOAA would enter into would depend on NOAA’s future decisions. If NOAA entered into more or fewer than the eight agreements anticipated for the 2020–2030 period, the bill’s costs could be higher or lower than estimated.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 2.

TABLE 2.—CBO’S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF S. 2981, THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS AMENDMENTS ACT OF 2019, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION ON DECEMBER 11, 2019

	By fiscal year, millions of dollars—												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020–2025	2020–2030
	Net Increase in the Deficit												
Pay-As-You-Go Effect	0	0	1	2	3	4	4	4	4	4	4	10	29

Increase in long-term deficits: CBO estimates that enacting S. 2981 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2031.

Mandates: None.

Previous CBO estimate: On October 22, 2019, CBO transmitted a cost estimate for H.R. 2406, the National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2019, as ordered reported by the House Committee on Natural Resources on September 18, 2019. Provisions in titles I through IV of S. 2981 (relating to the Commissioned Officer Corps) are similar to provisions of H.R. 2406 and CBO’s estimates of their costs are the same.

Estimate prepared by: Federal Costs: Robert Reese; Mandates: Brandon Lever.

Estimate reviewed by: Susan Willie, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

REGULATORY IMPACT STATEMENT

Because S. 2981 does not create any new programs, the legislation will have no additional regulatory impact, and will result in no additional reporting requirements. The legislation will have no further effect on the number or types of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; table of contents.

This section would provide that the bill may be cited as the “National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2019”.

Section 2. References to National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002.

References for amendments or repeal would be considered to be made to a section or provision of the NOAA Corps Act of 2002.

TITLE I—GENERAL PROVISIONS*Section 101. Strength and distribution in grade.*

This section would establish the commissioned grades for officers in the NOAA Corps, and authorizes the Secretary to determine the proportion of officers assigned to ranks below lieutenant commander. This section would require the Secretary to annually determine the number of officers authorized for service in each grade, but would protect officers from demotion, pay cuts, or separation from the service as a result of the Secretary’s determination.

Section 102. Recalled officers.

Occasionally, the NOAA Corps needs to recall officers from retired status for temporary duty, such as for disaster response (e.g., Hurricane Katrina, Deepwater Horizon) or to serve on personnel boards. It cannot do so if it is at authorized strength, reducing its ability to have a surge capacity.

This section would require that, in determining the number of officers in each grade, officers serving in positions of importance and responsibility⁴ and officers recalled from retirement for temporary duty (for example, during a disaster response), or officers detailed outside of the Administration would not be counted in, or against, the total number of authorized officers in the NOAA Corps.

Section 103. Obligated service requirement.

The NOAA Corps currently does not have any legislative authority to bind officers to service by contract or obligation. Theoretically, an officer could receive training (costs up to \$100,000, depending on type of training) and resign from the Corps shortly thereafter. The other Services require an obligated service for appointment, training, promotion, etc. of officers to ensure they receive an adequate return on investment in these categories. This section would authorize the Secretary to bind NOAA Corps officers to an obligation of service. It also would authorize the Secretary to seek reimbursement from officers who do not meet their obligated

⁴ 33 U.S.C. 3028.

service requirements, would characterize that as a debt owed to the United States, and would not allow such debt to be discharged in a personal bankruptcy entered into less than 5 years after execution of a service obligation. This section would allow the Secretary to waive an obligation of service requirement for an officer that is not qualified for service.

Section 104. Training and physical fitness.

This section would authorize the Secretary to carry out training programs and to require officers to maintain a state of physical fitness substantially equivalent to that required for officers in the USCG.

Section 105. Aviation accession training programs.

This section would authorize the Secretary to establish and maintain an aviation training program for NOAA Corps. It would describe the types of educational institutions where this type of program could take place. It would describe the requirements for students to be eligible for membership in the training program and allow appointment of students to the NOAA Corps on completion of the program. It would allow for financial aid for the students. It would specify repayment conditions for students who fail to complete the program or accept commission.

Section 106. Recruiting materials.

This section would authorize the Secretary the use of products created as recruiting and advertising materials (such as videos or pamphlets).

Section 107. Technical correction.

This section would correct a definition of active-duty NOAA Corps officers.

TITLE II—PARITY AND RECRUITMENT

Section 201. Education loans.

The NOAA Corps does not have the same education loan repayment recruiting incentives as the other Services. This is particularly an issue when trying to increase Corps diversity — many other organizations use these types of incentives to recruit minority students with a science and engineering background. This section would authorize the Secretary to create an education loan repayment program for certain qualified NOAA Corps officers.

Section 202. Interest payments.

This section would authorize the Secretary to create an interest payment program for student loans of certain active-duty NOAA Corps officers.

Section 203. Student pre-commissioning program.

This section would authorize the Secretary to provide financial assistance to support tuition and other education-related costs of a currently enrolled student if the student agrees to serve for a certain number of years as a NOAA Corps officer upon completion of his or her educational program.

Section 204. Limitation on educational assistance.

This section would limit the total amount expended by the Secretary for educational assistance programs (sections 201, 202, and 203) for NOAA Corps officers to the amount saved by the creation of the officer candidate rank (section 306).

Section 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.

This section would extend the following, additional title 10 authorities to the NOAA Corps: prohibition on unauthorized wearing of a uniform; rules regarding wearing religious apparel in uniform; exemption for serving on certain juries; administration of the oath; benefits and services for separated members; family programs; notary service; mental health resources; and educational assistance. It also would give authority to allow the Secretary to accept certain voluntary services, such as the implementation of an Ombudsman program. Ombudsman programs are intended to improve communication between the command and the family members of service members within the command.

Section 206. Applicability of certain provisions of title 37, United States Code.

This section would extend the following, additional title 37 authorities to the NOAA Corps: accession bonuses for officers with critical skills; housing allowances while on field or sea duty and housing allowances for dependents of deceased members; personal spending allowances; recruiting expenses; and funeral honors duty allowances.

Section 207. Prohibition on retaliatory personnel actions.

This section would amend 10 U.S.C. 1034 to include members of the NOAA Corps in whistleblower protections provided to members of the military.

Section 208. Application of certain provisions of competitive service law.

This section would amend 5 U.S.C. 3304 to allow former NOAA Corps officers to be eligible for consideration to competitive service positions.

Section 209. Employment and reemployment rights.

This section would amend 38 U.S.C. 4303 to extend the definition of uniformed services to include NOAA Corps officers for the purposes of employment and reemployment rights granted by chapter 43 of title 38.

Section 210. Treatment of commission in commissioned officer corps for purposes of certain hiring decisions.

This section would define that an officer who has served in the NOAA Corps for at least 3 years be deemed in a career or career-conditional position. An officer will therefore be qualified to apply for positions limited to individuals currently employed within the Administration.

TITLE III—APPOINTMENTS AND PROMOTION OF OFFICERS

Section 301. Appointments.

This section would prescribe criteria for the appointment of officers to NOAA Corps, and also allow for officers to be reappointed at the same grade they held when they separated from the NOAA Corps. It would allow officers to temporarily separate and pursue personal goals (like starting a family) or other opportunities outside the service, while providing a mechanism for their return to active duty. This section would authorize officers to be commissioned from the following sources: officer training school; military service academies; and licensed officers of the merchant marine with at least 2 years of service on a U.S. vessel. Finally, this section would require the Secretary of Commerce to coordinate with the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating to promote inter-service transfers of officers and would give preference to inter-service transfers in recruiting new NOAA Corps officers, as appropriate.

Section 302. Personnel boards.

This section would specify that the membership of personnel boards may include officers serving in or above the grade of the officers under consideration by the board, and may include recalled, retired officers. The current law does not allow retired or active officers below the pay grade of commander to serve on personnel boards, and makes it very difficult to form personnel boards, due to the Corps' inherent small size. This would help to ensure the diversity of the boards. This section would provide a NOAA Corps officer with the option to be excluded from consideration for promotion at the officer's request if that officer is pursuing professional or educational goals, has a personal qualifying circumstance, it is in the best interest of the Administration, or the officer was previously not selected.

Section 303. Positions of importance and responsibility.

This section would establish the Director of the NOAA Corps as a Senate confirmed position. This section would revert an officer who has served in a grade above captain to a lower grade at the beginning of terminal leave, unless appointed or assigned to a higher grade. It would limit the total number of officers serving on active duty in the grade of rear admiral (lower half) or above to less than five, with a limit of one vice admiral.

Section 304. Temporary appointments.

This section would establish a mechanism for junior officers to be temporarily appointed by the President alone.

Section 305. Officer candidates.

This section would authorize the Secretary to create an officer candidate rank for individuals who are in training before receiving their commission. Currently, officers entering the NOAA Corps for initial training are directly commissioned as officers (Ensigns) on their first day. All other services have a period where the individual is an officer candidate before receiving a commission. This

section would give NOAA the authority to create an officer candidate rank, with reduced pay. This would result in current savings of approximately \$115,000 annually, which could be used to pay for officer pre-commissioning and education programs established elsewhere in this bill.

Section 306. Procurement of personnel.

This section would authorize the Secretary to make expenditures in order to recruit NOAA Corps officers.

Section 307. Career intermission program.

This section would authorize the Secretary to create a program to allow officers to be inactivated from active service to meet personal or professional needs and to return to active service once these needs are met, with a written agreement from the Secretary. This section would outline the terms to be included in that agreement.

TITLE IV—SEPARATION AND RETIREMENT OF OFFICERS

Section 401. Involuntary retirement or separation.

This section would enable deferral of involuntary retirement or separation due to medical conditions for officers of any rank. Currently, the NOAA Corps can defer involuntary separation of lieutenant commanders and below, but it cannot for commanders and captains.

Section 402. Separation pay.

This section would clarify that separation pay may not be paid to an officer discharged after two missed promotion opportunities if he or she is not genuinely seeking a promotion.

TITLE V—OTHER NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION MATTERS

Section 501. Charting and survey services.

This section would require the Secretary of Commerce to enter into a contract or contracts for the procurement of not less than two multi-year charters for hydrographic services survey vessels with particular emphasis on the need to reduce the backlog of unfulfilled needs for charting and surveys in the Arctic.

Section 502. Leases and co-location agreements.

This section would allow the Administrator of NOAA to execute non-competitive leases and co-location agreements for real property and incidental goods and services with governments and Tribes for periods of not more than 30 years.

Section 503. Satellite and data management.

This section would require the Administrator of NOAA to consider ocean exploration when evaluating satellite systems architecture. It would allow transactional authority for observational systems and other uses. It would extend this authority until 2030.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

PART III—EMPLOYEES

* * * * *

Subpart B—Employment and Retention

* * * * *

CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT

* * * * *

Subchapter I—Examination, Certification, and Appointment

* * * * *

[5 U.S.C. 3304(f)]

§ 3304. Competitive service; examinations

(a) * * *

* * * * *

(f)(1) Preference eligibles or veterans who have been separated from the armed forces *and members of the commissioned officer corps of the National Oceanic and Atmospheric Administration (or its predecessor organization the Coast and Geodetic Survey) separated from such uniformed service* under honorable conditions after 3 years or more of active service may not be denied the opportunity to compete for vacant positions for which the agency making the announcement will accept applications from individuals outside its own workforce under merit promotion procedures.

(2) If selected, a preference eligible [or veteran], *veteran, or member* described in paragraph (1) shall receive a career or career-conditional appointment, as appropriate.

(3) This subsection shall not be construed to confer an entitlement to veterans' preference that is not otherwise required by law.

(4) The area of consideration for all merit promotion announcements which include consideration of individuals of the Federal

workforce shall indicate that preference eligibles and veterans who have been separated from the armed forces *and members of the commissioned officer corps of the National Oceanic and Atmospheric Administration (or its predecessor organization the Coast and Geodetic Survey) separated from such uniformed service* under honorable conditions after 3 years or more of active service are eligible to apply. The announcements shall be publicized in accordance with section 3327.

(5) The Office of Personnel Management shall prescribe regulations necessary for the administration of this subsection. The regulations shall ensure that an individual who has completed an initial tour of active duty is not excluded from the application of this subsection because of having been released from such tour of duty shortly before completing 3 years of active service, having been honorably released from such duty.

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TITLE 10—ARMED FORCES

* * * * *

Subtitle A—General Military Law

* * * * *

PART II—PERSONNEL

* * * * *

CHAPTER 53—MISCELLANEOUS RIGHTS AND BENEFITS

* * * * *

[10 U.S.C. 1044a]

§ 1044. Authority to act as notary

(a) The persons named in subsection (b) have the general powers of a notary public and of a consul of the United States in the performance of all notarial acts to be executed by any of the following:

- (1) Members of any of the **[armed forces]** *uniformed services*.
- (2) * * *
- (3) * * *
- (4) * * *

(b) Persons with the powers described in subsection (a) are the following:

- (1) * * *
- (2) * * *
- (3) * * *
- (4) All other members of the **[armed forces]** *uniformed services*, including reserve members when not in a duty status, who are designated by regulations of the **[armed forces]** *uniformed services* or by statute to have those powers.

* * * * *

CHAPTER 81—CIVILIAN EMPLOYEES

* * * * *

[10 U.S.C. 1588]

§ 1588. Authority to accept certain voluntary services

(a) AUTHORITY TO ACCEPT SERVICES.—Subject to subsection (b) and notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person the following services:

(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

(2) Voluntary services to be provided for a museum or a natural resources program.

(3) Voluntary services to be provided for programs providing services to members of the [armed forces] uniformed services and the families of such members, including the following programs:

* * * * *

(b) * * *

(c) * * *

(d) * * *

(e) * * *

(f) * * *

(g) SECRETARY CONCERNED FOR ACCEPTANCE OF SERVICES FOR PROGRAMS SERVING MEMBERS OF NOAA CORPS AND THEIR FAMILIES.—For purposes of the acceptance of services described in subsection (a)(3), the term “Secretary concerned” in subsection (a) shall include the Secretary of Commerce with respect to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration.

* * * * *

PART III—TRAINING AND EDUCATION

* * * * *

CHAPTER 107—PROFESSIONAL MILITARY EDUCATION

* * * * *

[10 U.S.C. 2153]

§ 2153. Capstone course: newly selected general and flag officers

(a) REQUIREMENT.—Each officer selected for promotion to the grade of brigadier general or, in the case of the Navy or the commissioned officer corps of the National Oceanic and Atmospheric Administration, rear admiral (lower half) shall be required, after such selection, to attend a military education course designed specifically to prepare new general and flag officers to work with the [other armed forces] other uniformed services.

(b) WAIVER AUTHORITY.—(1) Subject to paragraph (2), the Secretary of Defense or the Secretary of Commerce, as applicable, may waive subsection (a)—

* * * * *

TITLE 37—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

* * * * *

CHAPTER 3—BASIC PAY

* * * * *

§ 203. Rates

(a)(1) * * *

* * * * *

(e)(1) * * *

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

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

* * * * *

CHAPTER 7—ALLOWANCES OTHER THAN TRAVEL AND TRANSPORTATION ALLOWANCES

* * * * *

[37 U.S.C. 414(a)(2)]

§ 414. Personal money allowance

(a) ALLOWANCE FOR OFFICERS SERVING IN CERTAIN RANKS OR POSITIONS.—In addition to other pay or allowances authorized by this title, an officer who is entitled to basic pay is entitled to a personal money allowance of—

(1) \$500 a year, while serving in the grade of lieutenant general or vice admiral, or in an equivalent grade or rank;

(2) \$1,200 a year, in place of any other personal money allowance authorized by this section while serving as Surgeon General of the Public Health Service or the director of the commissioned officer corps of the National Oceanic and Atmospheric Administration;

* * * * *

TITLE 38—VETERANS' BENEFITS

* * * * *

PART I—GENERAL PROVISIONS

* * * * *

CHAPTER 1—GENERAL

* * * * *

[38 U.S.C. 101(21)(C)]

§ 101. Definitions

For the purposes of this title—

(1) * * *

* * * * *

(21) The term “active duty” means—

(A) * * *

(B) * * *

(C) full-time duty as a commissioned officer *in the commissioned officer corps* of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (I) while on transfer to one of the Armed Forces, or (II) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (III) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

* * * * *

Subchapter I—General

* * * * *

§ 4303. Definitions

For the purposes of this chapter—

(1) * * *

* * * * *

(16) The term “uniformed services” means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, *the commissioned officer corps of the National Oceanic and Atmospheric Administration*, System members of the National Urban Search and Rescue Response System during a period of ap-

pointment into Federal service under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and any other category of persons designated by the President in time of war or national emergency.

* * * * *

AN ACT TO REAUTHORIZE THE HYDROGRAPHIC SERVICES IMPROVEMENT ACT OF 1998, AND FOR OTHER PURPOSES

[Pub. L. 107-372, as amended by Pub. L. 110-386]

* * * * *

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

* * * * *

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS

Sec. 201. Short title.

SUBTITLE A—GENERAL PROVISIONS

- Sec. 211. Commissioned officer corps.
- Sec. 212. Definitions.
- Sec. 213. Authorized number on the active list.
- Sec. 214. Strength and distribution in grade.
- [Sec. 215. Authorized number for fiscal years 2003 through 2005.]**
- Sec. 215. *Number of authorized commissioned officers.*
- Sec. 216. *Obligated service requirement.*
- Sec. 217. *Training and physical fitness.*
- Sec. 218. *Aviation accession training programs.*
- Sec. 219. *Use of recruiting materials for public relations.*

SUBTITLE B—APPOINTMENT AND PROMOTION OF OFFICERS

- [Sec. 221. Original appointments.]**
- Sec. 221. *Original appointments and reappointments.*
- Sec. 222. Personnel boards.
- Sec. 223. Promotion of ensigns to grade of lieutenant (junior grade).
- Sec. 224. Promotion by selection to permanent grades above lieutenant (junior grade).
- Sec. 225. Length of service for promotion purposes.
- Sec. 226. Appointments and promotions to permanent grades.
- Sec. 227. General qualification of officers for promotion to higher permanent grade.
- Sec. 228. Positions of importance and responsibility.
- [Sec. 229. Temporary appointments and promotions generally.]**
- Sec. 229. *Temporary appointments.*
- Sec. 230. Temporary appointment or advancement of commissioned officers in time of war or national emergency.
- Sec. 231. Pay and allowances; date of acceptance of promotion.
- Sec. 232. Service credit as deck officer or junior engineer for promotion purposes.
- Sec. 233. Suspension during war or emergency.
- Sec. 234. *Officer candidates.*
- Sec. 235. *Procurement of personnel.*
- Sec. 236. *Career flexibility to enhance retention of officers.*

* * * * *

SUBTITLE E—RIGHTS AND BENEFITS

- Sec. 261. Applicability of certain provisions of title 10, United States Code.
- Sec. 261A. *Applicability of certain provisions of title 37, United States Code.*

- Sec. 262. Eligibility for veterans benefits and other rights, privileges, immunities, and benefits under certain provisions of law.
- Sec. 263. Medical and dental care.
- Sec. 264. Commissary privileges.
- Sec. 265. Authority to use appropriated funds for transportation and reimbursement of certain items.
- Sec. 266. Presentation of United States flag upon retirement.
- Sec. 267. *Education loan repayment program.*
- Sec. 268. *Interest payment program.*
- Sec. 269. *Student pre-commissioning education assistance program.*
- Sec. 269A. *Treatment of commission in commissioned officer corps as employment in Administration for purposes of certain hiring decisions.*

* * * * *

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS ACT

SEC. 201. SHORT TITLE.

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

Subtitle A—General Provisions

* * * * *

[33 U.S.C. 3002 et seq.]

SEC. 212. DEFINITIONS.

(a) * * *

(b) ADDITIONAL DEFINITIONS.—In this title:

(1) ACTIVE DUTY.—The term “active duty” means full-time duty in the active service of a uniformed service.

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

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

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

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

[(5)](6) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

[(6)](7) ADMINISTRATION.—The term “Administration” means the National Oceanic and Atmospheric Administration.

SEC. 213. * * *

SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.

[(a) RELATIVE RANK; PROPORTION.—Of the total authorized number of officers on the lineal list of the commissioned corps, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in proportions as follows:

[(1) 8 in the grade of captain.

[(2) 14 in the grade of commander.

- [(3) 19 in the grade of lieutenant commander.
- [(4) 23 in the grade of lieutenant.
- [(5) 18 in the grade of lieutenant (junior grade).
- [(6) 18 in the grade of ensign.

[(b) COMPUTATION OF NUMBER IN GRADE.—

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

[(2) LIMITATION ON INCREASE IN TOTAL NUMBER.—The total number of officers on the lineal list authorized by law may not be increased as the result of the computations prescribed in this section, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

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

[(d) FILLING OF VACANCIES; ADDITIONAL NUMBERS.—Nothing in this section may be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

[(e) TEMPORARY INCREASE IN NUMBERS.—The total number of officers authorized by law to be on the lineal list during a fiscal year may be temporarily exceeded so long as the average number on that list during that fiscal year does not exceed the authorized number.]

SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.

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

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

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

(c) ANNUAL COMPUTATION OF NUMBER IN GRADE.—

(1) IN GENERAL.—*Not less frequently than once each year, the Secretary shall make a computation to determine the number of officers on the lineal list authorized to be serving in each grade.*

(2) METHOD OF COMPUTATION.—*The number in each grade shall be computed by applying the applicable percentage to the total number of such officers serving on active duty on the date the computation is made.*

(3) FRACTIONS.—*If a final fraction occurs in computing the authorized number of officers in a grade, the nearest whole*

number shall be taken. If the fraction is one-half, the next higher whole number shall be taken.

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

(e) *POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—Officers serving in positions designated under section 228(a) and officers recalled from retired status shall not be counted when computing authorized strengths under subsection (c) and shall not count against those strengths.*

(f) *PRESERVATION OF GRADE AND PAY.—No officer may be reduced in grade or pay or separated from the commissioned officer corps of the Administration as the result of a computation made to determine the authorized number of officers in the various grades.*

[SEC. 215. NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

[Effective October 1, 2009, the total number of authorized commissioned officers on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration shall be increased from 321 to 379 if—

[(1) the Secretary has submitted to the Congress—

[(A) the Administration’s ship recapitalization plan for fiscal years 2010 through 2024;

[(B) the Administration’s aircraft modernization plan; and

[(C) supporting workforce management plans;

[(2) appropriated funding is available; and

[(3) the Secretary has justified organizational needs for the commissioned corps for each such fiscal year.

SEC. 215. NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

(a) *IN GENERAL.—The total number of authorized commissioned officers on the lineal list of the commissioned officer corps of the Administration shall not exceed 500.*

(b) *POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—Officers serving in positions designated under section 228 and officers recalled from retired status or detailed to an agency other than the Administration—*

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

(2) may not count against such number.

SEC. 216. OBLIGATED SERVICE REQUIREMENT.

(a) *IN GENERAL.—*

(1) REGULATIONS.—The Secretary shall prescribe the obligated service requirements for appointments, training, promotions, separations, continuations, and retirements of officers not otherwise covered by law.

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

(b) *REPAYMENT FOR FAILURE TO SATISFY REQUIREMENTS.—*

(1) *IN GENERAL.*—The Secretary may require an officer who fails to meet the service requirements prescribed under subsection (a)(1) to reimburse the Secretary in an amount that bears the same ratio to the total costs of the training provided to that officer by the Secretary as the unserved portion of active duty bears to the total period of active duty the officer agreed to serve.

(2) *OBLIGATION AS DEBT TO UNITED STATES.*—An obligation to reimburse the Secretary under paragraph (1) is, for all purposes, a debt owed to the United States.

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

(c) *WAIVER OR SUSPENSION OF COMPLIANCE.*—The Secretary may waive the service obligation of an officer who—

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

(2) is—

(A) not physically qualified for appointment; and

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

SEC. 217. TRAINING AND PHYSICAL FITNESS.

(a) *TRAINING.*—The Secretary may take such measures as may be necessary to ensure that officers are prepared to carry out their duties in the commissioned officer corps of the Administration and proficient in the skills necessary to carry out such duties. Such measures may include the following:

(1) Carrying out training programs and correspondence courses, including establishing and operating a basic officer training program to provide initial indoctrination and maritime vocational training for officer candidates as well as refresher training, mid-career training, aviation training, and such other training as the Secretary considers necessary for officer development and proficiency.

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

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

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

SEC. 218. AVIATION ACCESSION TRAINING PROGRAMS.

(a) *DEFINITIONS.*—In this section:

(1) *ADMINISTRATOR.*—The term “Administrator” means the Under Secretary of Commerce for Oceans and Atmosphere and the Administrator of the National Oceanic and Atmospheric Administration.

(2) *MEMBER OF THE PROGRAM.*—The term “member of the program” means a student who is enrolled in the program.

(3) *PROGRAM.*—The term “program” means an aviation accession training program of the commissioned officer corps of the Administration established pursuant to subsection (b).

(b) *AVIATION ACCESSION TRAINING PROGRAMS.*—

(1) *ESTABLISHMENT AUTHORIZED.*—The Administrator, under regulations prescribed by the Secretary, shall establish and maintain one or more aviation accession training programs for the commissioned officer corps of the Administration at institutions described in paragraph (2).

(2) *INSTITUTIONS DESCRIBED.*—An institution described in this paragraph is an educational institution—

(A) that requests to enter into an agreement with the Administrator providing for the establishment of the program at the institution;

(B) that has, as a part of its curriculum, a four-year baccalaureate program of professional flight and piloting instruction that is accredited by the Aviation Accreditation Board International;

(C) that is located in a geographic area that—

(i) experiences a wide variation in climate-related activity, including frequent high winds, convective activity (including tornadoes), periods of low visibility, heat, and snow and ice episodes, to provide opportunities for pilots to demonstrate skill in all weather conditions compatible with future encounters during their service in the commissioned officer corps of the Administration; and

(ii) has a climate that can accommodate both primary and advanced flight training activity at least 75 percent of the year; and

(D) at which the Administrator determines that—

(i) there will be at least one student enrolled in the program; and

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

(3) *LIMITATIONS IN CONNECTION WITH PARTICULAR INSTITUTIONS.*—The program may not be established or maintained at an institution unless—

(A) the senior commissioned officer or employee of the commissioned officer corps of the Administration who is assigned as an advisor to the program at that institution is given the academic rank of adjunct professor; and

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

(4) *MEMBERSHIP IN CONNECTION WITH STATUS AS STUDENT.*—At institutions at which the program is established, the membership of students in the program shall be elective, as provided by State law or the authorities of the institution concerned.

(c) *MEMBERSHIP.*—

(1) *ELIGIBILITY.*—To be eligible for membership in the program an individual must—

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

(B) be a citizen of the United States;

(C) contract in writing, with the consent of a parent or guardian if a minor, with the Administrator, to—

(i) accept an appointment, if offered, as a commissioned officer in the commissioned officer corps of the Administration; and

(ii) serve in the commissioned officer corps of the Administration for not fewer than four years;

(D) enroll in—

(i) a four-year baccalaureate program of professional flight and piloting instruction; and

(ii) other training or education, including basic officer training, which is prescribed by the Administrator as meeting the preliminary requirement for admission to the commissioned officer corps of the Administration; and

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

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

(d) FINANCIAL ASSISTANCE FOR QUALIFIED MEMBERS.—

(1) EXPENSES OF COURSE OF INSTRUCTION.—

(A) IN GENERAL.—In the case of a member of the program who meets such qualifications as the Administrator establishes for purposes of this subsection, the Administrator may pay the expenses of the member in connection with pursuit of a course of professional flight and piloting instruction under the program, including tuition, fees, educational materials such as books, training, certifications, travel, and laboratory expenses.

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

(2) ROOM AND BOARD.—In the case of a 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 and board expenses of the member, and other educational expenses, of the educational institution concerned.

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

(e) REPAYMENT OF UNEARNED PORTION OF FINANCIAL ASSISTANCE WHEN CONDITIONS OF PAYMENT NOT MET.—

(1) IN GENERAL.—A member of the program who receives or benefits from assistance under subsection (d), and whose receipt of or benefit from such assistance is subject to the condition that the member fully satisfy the requirements of subsection (c), shall repay to the United States an amount equal to the assistance received or benefitted from if the member fails to fully satisfy such requirements and may not receive or benefit from any unpaid amounts of such assistance after the member fails to satisfy such requirements, unless the Administrator determines that the imposition of the repayment requirement and the termination of payment of unpaid amounts of such assistance with regard to the member would be—

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

(B) against equity and good conscience; or

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

(2) REGULATIONS.—The Administrator may establish, by regulations, procedures for determining the amount of the repayment required under this subsection and the circumstances under which an exception to repayment may be granted. The Administrator may specify in the regulations the conditions under which financial assistance to be paid to a member of the program will not be made if the member no longer satisfies the requirements in subsection (c) or qualifications in subsection (d) for such assistance.

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

SEC. 219. USE OF RECRUITING MATERIALS FOR PUBLIC RELATIONS.

The Secretary may use for public relations purposes of the Department of Commerce any advertising materials developed for use for recruitment and retention of personnel for the commissioned officer corps of the Administration. Any such use shall be under such conditions and subject to such restrictions as the Secretary shall prescribe.

Subtitle B—Appointment and Promotion of Officers

SEC. 221. ORIGINAL APPOINTMENTS.

[(a) IN GENERAL.—

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

[(2) QUALIFICATIONS.—Under regulations prescribed by the Secretary, such an appointment may be given only to a person who—

[(A) meets the qualification requirements specified in paragraphs (1) through (4) of section 532(a) of title 10, United States Code; and

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

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

[(4) REVOCATION OF COMMISSION OF OFFICERS FOUND NOT QUALIFIED.—The President may revoke the commission of any officer appointed under this section during the officer's first three years of service if the officer is found not qualified for the service. Any such revocation shall be made under regulations prescribed by the President.

[(b) LINEAL LIST.—Each person appointed under this section shall be placed on the lineal list in a position commensurate with that person's age, education, and experience, in accordance with regulations prescribed by the Secretary.

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

[(1) IN GENERAL.—For the purposes of basic pay, a person appointed under this section in the grade of lieutenant shall be credited as having, on the date of that appointment, three years of service, and a person appointed under this section in the grade of lieutenant (junior grade) shall be credited as having, as of the date of that appointment, 1½ years of service.

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

SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINTMENTS.

(a) ORIGINAL APPOINTMENTS.—

(1) GRADES.—

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

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

(ii) the commissioned officer corps of the Administration.

(B) APPOINTMENT OF OFFICER CANDIDATES.—

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

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

(2) SOURCE OF APPOINTMENTS.—*An original appointment may be made from among the following:*

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

(B) Graduates of the military service academies of the United States who otherwise meet the academic standards

for enrollment in the training program described in subparagraph (A).

(C) Graduates of the maritime academies of the States who—

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

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

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

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

(3) DEFINITIONS.—In this subsection:

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

(i) California Maritime Academy, Vallejo, California.

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

(iii) Maine Maritime Academy, Castine, Maine.

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

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

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

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

(i) The United States Military Academy, West Point, New York.

(ii) The United States Naval Academy, Annapolis, Maryland.

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

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

(v) The United States Merchant Marine Academy, Kings Point, New York.

(b) REAPPOINTMENT.—

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

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

(c) QUALIFICATIONS.—An appointment under subsection (a) or (b) may not be given to an individual until the individual’s mental, moral, physical, and professional fitness to perform the duties of an

officer has been established under such regulations as the Secretary shall prescribe.

(d) *ORDER OF PRECEDENCE.*—Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in such grade. The order of precedence of appointees whose dates of commission are the same shall be determined by the Secretary.

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

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

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

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

[SEC. 222. PERSONNEL BOARDS.

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

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

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

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

[(c) ACTION ON RECOMMENDATIONS NOT ACCEPTABLE.—In a case in which any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further recommendations as are acceptable.]

SEC. 222. PERSONNEL BOARDS.

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

(b) *MEMBERSHIP.*—

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

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

(3) *NO MEMBERSHIP ON TWO SUCCESSIVE BOARDS.*—No officer may be a member of two successive personnel boards convened to consider officers of the same grade for promotion or separation.

(c) *DUTIES.*—Each personnel board shall—

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

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

(d) ACTION ON RECOMMENDATIONS NOT ACCEPTABLE.—If any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further recommendations as the Secretary or the President considers appropriate.

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

(1) IN GENERAL.—The Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps may provide that an officer, upon the officer's request and with the approval of the Director, be excluded from consideration for promotion by a personnel board convened under this section.

(2) APPROVAL.—The Director shall approve a request made by an officer under paragraph (1) only if—

(A) the basis for the request is to allow the officer to complete a broadening assignment, advanced education, another assignment of significant value to the Administration, a career progression requirement delayed by the assignment or education, or a qualifying personal or professional circumstance, as determined by the Director;

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

(C) the officer has not previously failed selection for promotion to the grade for which the officer requests the exclusion from consideration.

* * * * *

[33 U.S.C. 3028 et seq.]

SEC. 228. POSITIONS OF IMPORTANCE AND RESPONSIBILITY

(a) * * *

(b) * * *

(c) DIRECTOR OF NOAA CORPS AND OFFICE OF MARINE AND AVIATION OPERATIONS.—[The Secretary shall designate one position under this section] *The President shall designate one position as responsible for oversight of the vessel and aircraft fleets and for the administration of the commissioned officer corps. [That position shall be filled by] The President shall fill that position by appointing, by and with the advice and consent of the Senate, an officer on the lineal list serving in or above the grade of rear admiral (lower half). For the specific purpose of administering the commissioned officer corps, that position shall carry the title of Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps. For the specific purpose of administering the vessel and aircraft fleets, that position shall carry the title of Director of the Office of Marine and Aviation Operations.*

(d) GRADE.—

(1) * * *

(2) REVERSION TO PERMANENT GRADE.—An officer who has served in a grade above captain, upon termination of the officer's assignment to the position for which that appointment was made, shall, unless appointed or assigned to another position for which a higher grade is designated *or immediately beginning a period of terminal leave*, revert to the grade and number the officer would have occupied but for serving in a grade above that of captain. In such a case, the officer shall be an extra number in that grade.

[(e) NUMBER OF OFFICERS APPOINTED.—

[(1) OVERALL LIMIT.—The total number of officers serving on active duty at any one time in the grade of rear admiral (lower half) or above may not exceed four.

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

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

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

[(C) two in the grade of rear admiral (lower half).]

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

(f) *PAY AND ALLOWANCES.*—An officer appointed to a grade under this section, while serving in that grade *or in a period of annual leave used at the end of the appointment*, shall have the pay and allowances of the grade to which appointed.

(g) * * *

[SEC. 229. TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY.

[(a) ENSIGN.—Temporary appointments in the grade of ensign may be made by the President. Each such temporary appointment terminates at the close of the next regular session of the Congress.

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

[(c) ANY ONE GRADE.—When determined by the Secretary to be in the best interest of the service, officers in any permanent grade may be temporarily promoted one grade by the President. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.]

SEC. 229. TEMPORARY APPOINTMENTS.

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

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

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

(d) *ANY ONE GRADE.*—When determined by the Secretary to be in the best interest of the commissioned officer corps of the Administration, officers in any permanent grade may be temporarily promoted one grade by the President. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.

* * * * *

SEC. 233. * * *

SEC. 234. OFFICER CANDIDATES.

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

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

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

(d) *AGREEMENT.*—

(1) *IN GENERAL.*—Each officer candidate shall sign an agreement with the Secretary in accordance with section 216(a)(2) regarding the officer candidate's term of service in the commissioned officer corps of the Administration.

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

(A) That the officer candidate will complete the course of instruction at the basic officer training program of the Administration.

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

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

(ii) will serve on active duty for at least four years immediately after such appointment.

(e) *REGULATIONS.*—The Secretary shall prescribe regulations to carry out this section. Such regulations shall include—

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

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

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

SEC. 235. PROCUREMENT OF PERSONNEL.

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

SEC. 236. CAREER FLEXIBILITY TO ENHANCE RETENTION OF OFFICERS.

(a) **PROGRAMS AUTHORIZED.**—*The Secretary may carry out a program under which officers may be inactivated from active duty in order to meet personal or professional needs and returned to active duty at the end of such period of inactivation from active duty.*

(b) **PERIOD OF INACTIVATION FROM ACTIVE DUTY; EFFECT OF INACTIVATION.**—

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

(2) **EXCLUSION FROM RETIREMENT.**—*Any period of participation of an officer in a program under this section shall not count toward eligibility for retirement or computation of retired pay under subtitle C.*

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

(1) *To undergo during the period of the inactivation of the officer from active duty under the program such inactive duty training as the Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps shall require in order to ensure that the officer retains proficiency, at a level determined by the Director to be sufficient, in the technical skills, professional qualifications, and physical readiness of the officer during the inactivation of the officer from active duty.*

(2) *Following completion of the period of the inactivation of the officer from active duty under the program, to serve two months on active duty for each month of the period of the inactivation of the officer from active duty under the program.*

(d) **CONDITIONS OF RELEASE.**—*The Secretary shall—*

(1) *prescribe regulations specifying the guidelines regarding the conditions of release that must be considered and addressed in the agreement required by subsection (c); and*

(2) *at a minimum, prescribe the procedures and standards to be used to instruct an officer on the obligations to be assumed by the officer under paragraph (1) of such subsection while the officer is released from active duty.*

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

(f) **PAY AND ALLOWANCES.**—

(1) **BASIC PAY.**—*During each month of participation in a program under this section, an officer who participates in the program shall be paid basic pay in an amount equal to two-thirtieths of the amount of monthly basic pay to which the officer would otherwise be entitled under section 204 of title 37,*

United States Code, as a member of the uniformed services on active duty in the grade and years of service of the officer when the officer commences participation in the program.

(2) *SPECIAL OR INCENTIVE PAY OR BONUS.—*

(A) *PROHIBITION.—An officer who participates in a program under this section shall not, while participating in the program, be paid any special or incentive pay or bonus to which the officer is otherwise entitled under an agreement under chapter 5 of title 37, United States Code, that is in force when the officer commences participation in the program.*

(B) *NOT TREATED AS FAILURE TO PERFORM SERVICES.—The inactivation from active duty of an officer participating in a program under this section shall not be treated as a failure of the officer to perform any period of service required of the officer in connection with an agreement for a special or incentive pay or bonus under chapter 5 of title 37, United States Code, that is in force when the officer commences participation in the program.*

(3) *RETURN TO ACTIVE DUTY.—*

(A) *SPECIAL OR INCENTIVE PAY OR BONUS.—Subject to subparagraph (B), upon the return of an officer to active duty after completion by the officer of participation in a program under this section—*

(i) *any agreement entered into by the officer under chapter 5 of title 37, United States Code, for the payment of a special or incentive pay or bonus that was in force when the officer commenced participation in the program shall be revived, with the term of such agreement after revival being the period of the agreement remaining to run when the officer commenced participation in the program; and*

(ii) *any special or incentive pay or bonus shall be payable to the officer in accordance with the terms of the agreement concerned for the term specified in clause (i).*

(B) *LIMITATION.—*

(i) *IN GENERAL.—Subparagraph (A) shall not apply to any special or incentive pay or bonus otherwise covered by that subparagraph with respect to an officer if, at the time of the return of the officer to active duty as described in that subparagraph—*

(I) *such pay or bonus is no longer authorized by law; or*

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

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

(C) *REPAYMENT.*—An officer who is ineligible for payment of a special or incentive pay or bonus otherwise covered by this paragraph by reason of subparagraph (B)(i)(II) shall be subject to the requirements for repayment of such pay or bonus in accordance with the terms of the applicable agreement of the officer under chapter 5 of title 37, United States Code.

(D) *REQUIRED SERVICE IS ADDITIONAL.*—Any service required of an officer under an agreement covered by this paragraph after the officer returns to active duty as described in subparagraph (A) shall be in addition to any service required of the officer under an agreement under subsection (c).

(4) *TRAVEL AND TRANSPORTATION ALLOWANCE.*—

(A) *IN GENERAL.*—Subject to subparagraph (B), an officer who participates in a program under this section is entitled, while participating in the program, to the travel and transportation allowances authorized by section 474 of title 37, United States Code, for—

(i) travel performed from the residence of the officer, at the time of release from active duty to participate in the program, to the location in the United States designated by the officer as the officer's residence during the period of participation in the program; and

(ii) travel performed to the residence of the officer upon return to active duty at the end of the participation of the officer in the program.

(B) *SINGLE RESIDENCE.*—An allowance is payable under this paragraph only with respect to travel of an officer to and from a single residence.

(5) *LEAVE BALANCE.*—An officer who participates in a program under this section is entitled to carry forward the leave balance existing as of the day on which the officer begins participation and accumulated in accordance with section 701 of title 10, United States Code, but not to exceed 60 days.

(g) *PROMOTION.*—

(1) *IN GENERAL.*—An officer participating in a program under this section shall not, while participating in the program, be eligible for consideration for promotion under subtitle B.

(2) *RETURN TO SERVICE.*—Upon the return of an officer to active duty after completion by the officer of participation in a program under this section—

(A) the Secretary may adjust the date of rank of the officer in such manner as the Secretary shall prescribe in regulations for purposes of this section; and

(B) the officer shall be eligible for consideration for promotion when officers of the same competitive category, grade, and seniority are eligible for consideration for promotion.

(h) *CONTINUED ENTITLEMENTS.*—An officer participating in a program under this section shall, while participating in the program, be treated as a member of the uniformed services on active duty for a period of more than 30 days for purposes of—

- (1) the entitlement of the officer and of the dependents of the officer to medical and dental care under the provisions of chapter 55 of title 10, United States Code; and
- (2) retirement or separation for physical disability under the provisions of subtitle C.

Subtitle C—Separation and Retirement of Officers

[33 U.S.C. 3041 et seq.]

SEC. 241. INVOLUNTARY RETIREMENT OR SEPARATION.

- (a) * * *
- (b) * * *
- (c) * * *

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

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

(2) *CONSENT REQUIRED.*—A deferment may only be made with the written consent of the officer involved. If the officer does not provide written consent to the deferment, the officer shall be retired or separated as scheduled.

(3) *LIMITATION.*—A deferment of retirement or separation under this subsection may not extend for more than 30 days after completion of the evaluation requiring hospitalization or medical observation.

SEC. 242. SEPARATION PAY

- (a) * * *
- (b) * * *
- (c) * * *

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

- (1) expresses a desire not to be selected for promotion; or
- (2) requests removal from the list of selectees.

* * * * *

Subtitle E—Rights and Benefits

[33 U.S.C. 3071]

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

(a) **PROVISIONS MADE APPLICABLE TO THE CORPS.**—The rules of law that apply to the Armed Forces under the following provisions of title 10, United States Code, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the Administration:

- (1) Chapter 40, relating to leave.
- (2) Section 533(b), relating to constructive service.

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

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

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

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

(7) Section 1031, relating to administration of oaths.

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

[(4)](9) Section 1035, relating to deposits of savings.

[(5)](10) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.

[(6)](11) Section 1052, relating to reimbursement for adoption expenses.

(12) Section 1074n, relating to annual mental health assessments.

(13) Section 1090a, relating to referrals for mental health evaluations.

(14) Chapter 58, relating to the Benefits and Services for members being separated or recently separated.

[(7)](15) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).

[(8)](16) Chapter 61, relating to retirement or separation for physical disability.

[(9)](17) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.

[(10)](18) Chapter 71, relating to computation of retired pay.

[(11)](19) Chapter 73, relating to annuities based on retired or retainer pay.

[(12)](20) Subchapter II of chapter 75, relating to death benefits.

(21) Subchapter I of chapter 88, relating to Military Family Programs.

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

[(13)](23) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.

[(14)](24) Sections 2731 and 2735, relating to property loss incident to service.

[(15)](25) Section 2771, relating to final settlement of accounts of deceased members.

[(16)](26) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) REFERENCES.—The authority vested by title 10, United States Code, in the “military departments”, “the Secretary concerned”, or “the Secretary of Defense” with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary’s designee. *For purposes of para-*

graph (8) of subsection (a), the term “Inspector General” in section 1034 of such title 10 shall mean the Inspector General of the Department of Commerce.

(c) **REGULATIONS REGARDING PROTECTED COMMUNICATIONS AND PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.**—The Secretary may prescribe regulations to carry out the application of section 1034 of title 10, United States Code, to the commissioned officer corps of the Administration, including by prescribing such administrative procedures for investigation and appeal within the commissioned officer corps as the Secretary considers appropriate.

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

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

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

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

(3) Section 403(l), relating to temporary continuation of housing allowance for dependents of members dying on active duty.

(4) Section 415, relating to initial uniform allowances.

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

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

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

* * * * *

[33 U.S.C. 3076 et seq.]

SEC. 266. * * *

SEC. 267. EDUCATION LOAN REPAYMENT PROGRAM.

(a) **AUTHORITY TO REPAY EDUCATION LOANS.**—For the purpose of maintaining adequate numbers of officers of the commissioned officer corps of the Administration on active duty who have skills required by the commissioned officer corps, the Secretary may repay, in the case of a person described in subsection (b), a loan that—

(1) was used by the person to finance education; and

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

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

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

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

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

(c) **ACADEMIC AND PROFESSIONAL REQUIREMENTS.**—One of the following academic requirements must be satisfied for purposes of determining the eligibility of an individual for a loan repayment under this section:

(1) The person is fully qualified in a profession that the Secretary has determined to be necessary to meet identified skill shortages in the commissioned officer corps of the Administration.

(2) The person is enrolled as a full-time student in the final year of a course of study at an accredited educational institution (as determined by the Secretary of Education) leading to a degree in a profession that will meet identified skill shortages in the commissioned officer corps of the Administration.

(d) **LOAN REPAYMENTS.**—

(1) **IN GENERAL.**—Subject to the limits established under paragraph (2), a loan repayment under this section may consist of the payment of the principal, interest, and related expenses of a loan obtained by a person described in subsection (b).

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

(e) **ACTIVE DUTY SERVICE OBLIGATION.**—

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

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

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

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

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

(4) **CONCURRENT COMPLETION OF SERVICE OBLIGATIONS.**—A service obligation under this section may be completed concurrently with a service obligation under section 216.

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

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

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

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

- (1) standards for qualified loans and authorized payees; and
- (2) other terms and conditions for the making of loan repayments.

SEC. 268. INTEREST PAYMENT PROGRAM.

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

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

- (1) is serving on active duty;
- (2) has not completed more than three years of service on active duty;
- (3) is the debtor on one or more unpaid loans described in subsection (c); and
- (4) is not in default on any such loan.

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

- (1) A loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.).
- (2) A loan made under part D of such title (20 U.S.C. 1087a et seq.).
- (3) A loan made under part E of such title (20 U.S.C. 1087aa et seq.).

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

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

(f) *COORDINATION WITH SECRETARY OF EDUCATION.*—

(1) *IN GENERAL.*—The Secretary shall consult with the Secretary of Education regarding the administration of this section.

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

- (A) to pay interest and special allowances on student loans under this section (in accordance with sections 428(o), 455(l), and 464(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(o), 1087e(l), and 1087dd(j)); and
- (B) to reimburse the Secretary of Education for any reasonable administrative costs incurred by the Secretary in coordinating the program under this section with the administration of the student loan programs under parts B, D, and E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.).

(g) *SPECIAL ALLOWANCE DEFINED.*—In this section, the term “special allowance” means a special allowance that is payable under section 438 of the Higher Education Act of 1965 (20 U.S.C. 1087–1).

SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION ASSISTANCE PROGRAM.

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

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

(2) a postbaccalaureate degree.

(b) *ELIGIBLE PERSONS.*—

(1) *IN GENERAL.*—A person is eligible to obtain financial assistance under subsection (a) if the person—

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

(B) meets all of the requirements for acceptance into the commissioned officer corps of the Administration except for the completion of a baccalaureate degree; and

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

(2) *AGREEMENT.*—A written agreement referred to in paragraph (1)(C) is an agreement between the person and the Secretary in which the person—

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

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

(i) up to three years if the person received less than three years of assistance; and

(ii) up to five years if the person received at least three years of assistance.

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

(1) Tuition and fees charged by the educational institution involved.

(2) The cost of educational materials.

(3) In the case of a program of education leading to a baccalaureate degree, laboratory expenses.

(4) Such other expenses as the Secretary considers appropriate.

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

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

(f) *SUBSISTENCE ALLOWANCE.*—

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

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

(g) *INITIAL CLOTHING ALLOWANCE.*—

(1) *TRAINING.*—The Secretary may prescribe a sum which shall be credited to each person who receives financial assistance under subsection (a) to cover the cost of the person's initial clothing and equipment issue.

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

(h) *TERMINATION OF FINANCIAL ASSISTANCE.*—

(1) *IN GENERAL.*—The Secretary shall terminate the assistance provided to a person under this section if—

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

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

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

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

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

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

(B) is—

(i) not physically qualified for appointment; and

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

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

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

(i) *REGULATIONS.*—The Secretary may prescribe such regulations and orders as the Secretary considers appropriate to carry out this section.

(j) *CONCURRENT COMPLETION OF SERVICE OBLIGATIONS.*—A service obligation under this section may be completed concurrently with a service obligation under section 216.

SEC. 269A. TREATMENT OF COMMISSION IN COMMISSIONED OFFICER CORPS AS EMPLOYMENT IN ADMINISTRATION FOR PURPOSES OF CERTAIN HIRING DECISIONS.

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

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

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

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HIGHER EDUCATION ACT OF 1965

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[20 U.S.C. 1078(o)]

SEC. 428. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.

(a) * * *

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(o) **[ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM] ARMED FORCES AND NOAA COMMISSIONED OFFICER CORPS STUDENT LOAN INTEREST PAYMENT PROGRAMS.**—

(1) *Authority.*—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, or section 268 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 for the pay-

ment of interest and any special allowance on a loan to a member of the Armed Forces or an officer in the commissioned officer corps of the National Oceanic and Atmospheric Administration, respectively, that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any special allowance on such a loan out of any funds other than funds that have been so transferred.

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[20 U.S.C. 1087e(1)]

SEC. 455. TERMS AND CONDITIONS OF LOANS.

(a) * * *

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(1) **[ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM] ARMED FORCES AND NOAA COMMISSIONED OFFICER CORPS STUDENT LOAN INTEREST PAYMENT PROGRAMS.—**

(1) **AUTHORITY.—**Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, or section 268 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 for the payment of interest on a loan made under this part to a member of the Armed Forces or an officer in the commissioned officer corps of the National Oceanic and Atmospheric Administration, respectively, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

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[20 U.S.C. 1087dd(j)]

SEC. 464. TERMS OF LOANS.

(a) * * *

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(j) **[ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM] ARMED FORCES AND NOAA COMMISSIONED OFFICER CORPS STUDENT LOAN INTEREST PAYMENT PROGRAMS.—**

(1) **AUTHORITY.—**Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, or section 268 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 for the payment of interest on a loan made under this part to a member of the Armed Forces or an officer in the commissioned officer corps of the National Oceanic and Atmospheric Administration, respectively, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

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WEATHER RESEARCH AND FORECASTING INNOVATION ACT OF 2017

[15 U.S.C. 8531]

SEC. 301. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION SATELLITE AND DATA MANAGEMENT.

(a) * * *

(b) * * *

(c) NEXT GENERATION SATELLITE ARCHITECTURE.—

(1) IN GENERAL.—The Under Secretary shall analyze, test, and plan the procurement of future data sources and satellite architectures, including respective ground system elements, identified in the National Oceanic and Atmospheric Administration’s Satellite Observing System Architecture Study that—

(A) lower the cost of observations used to meet the National Oceanic and Atmospheric Administration’s mission requirements;

(B) disaggregate current satellite systems, where appropriate;

(C) include new, value-adding technological advancements; and

[(D) improve weather forecasting and predictions.]

(D) improve—

(i) weather and climate forecasting and predictions; and

(ii) the understanding, management, and exploration of the ocean.

(2) QUANTITATIVE ASSESSMENTS AND PARTNERSHIP AUTHORITY.—In meeting the requirements described in paragraph (1), the Under Secretary—

(A) may partner with the commercial and academic sectors, non-governmental and not-for-profit organizations, and other Federal agencies; and

(B) shall, consistent with section 107 of this Act, undertake quantitative assessments for objective analyses, as the Under Secretary considers appropriate, to evaluate relative value and benefits of future data sources and satellite architectures described in paragraph (1).

(d) ADDITIONAL FORMS OF TRANSACTION AUTHORIZED.—

(1) IN GENERAL.—Subject to paragraph (2), in order to enhance the effectiveness of **[data and satellite systems]** *data, satellite, and other observing systems* used by the National Oceanic and Atmospheric Administration to meet its missions, the Under Secretary may enter into and perform such transaction agreements on such terms as the Under Secretary considers appropriate **[to carry out basic, applied, and advanced research projects to meet the objectives described in subparagraphs (A) through (D) subsection (c)(1).]** *to carry out—*

(A) basic, applied, and advanced research projects and ocean exploration missions to meet the objectives described in subparagraphs (A) through (D) of subsection (c)(1); or

(B) any other type of project to meet other mission objectives, as determined by the Under Secretary.

(2) METHOD AND SCOPE.—

(A) IN GENERAL.—A transaction agreement under paragraph (1) shall be limited to research and development activities.

(B) PERMISSIBLE USES.—A transaction agreement under paragraph (1) may be used—

(i) for the construction, use, operation, or procurement of new, improved, innovative, or value-adding **【satellites, instrumentation, ground stations, and data;】** *systems, including satellites, instrumentation, ground stations, data, and data processing;*

(ii) to make determinations on how to best use existing or planned data, systems, and assets of the National Oceanic and Atmospheric Administration; and

(iii) only when the objectives of the National Oceanic and Atmospheric Administration cannot be met using a cooperative research and development agreement, grants procurement contract, or cooperative agreement.

(3) TERMINATION OF EFFECTIVENESS.—The authority provided in this subsection terminates effective September 30, **【2023】** 2030.

(e) * * *

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