

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

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

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**A BILL**

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “National Oceanic and Atmospheric Administration Com-  
6 missioned Officer Corps Amendments Act of 2019”.

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

Sec. 1. Short title; table of contents.



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

## 5 **TITLE I—GENERAL PROVISIONS**

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

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

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

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

13 “(1) Vice admiral.

14 “(2) Rear admiral.

15 “(3) Rear admiral (lower half).

16 “(4) Captain.

17 “(5) Commander.

18 “(6) Lieutenant commander.

19 “(7) Lieutenant.

20 “(8) Lieutenant (junior grade).

21 “(9) Ensign.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 in section 1 of the Act entitled “An Act to authorize the  
3 Hydrographic Services Improvement Act of 1998, and for  
4 other purposes” (Public Law 107–372) is amended by  
5 striking the item relating to section 215 and inserting the  
6 following:

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

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

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

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

11 “(a) IN GENERAL.—

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

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

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

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

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

13          “(3) DISCHARGE IN BANKRUPTCY.—A dis-  
14          charge in bankruptcy under title 11 that is entered  
15          less than 5 years after the termination of a written  
16          agreement entered into under subsection (a)(2) does  
17          not discharge the individual signing the agreement  
18          from a debt arising under such agreement.

19          “(c) WAIVER OR SUSPENSION OF COMPLIANCE.—  
20          The Secretary may waive the service obligation of an offi-  
21          cer who—

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

1 “(2) is—

2 “(A) not physically qualified for appoint-  
3 ment; and

4 “(B) determined to be unqualified for serv-  
5 ice in the commissioned officer corps of the Ad-  
6 ministration because of a physical or medical  
7 condition that was not the result of the officer’s  
8 own misconduct or grossly negligent conduct.”.

9 (b) CLERICAL AMENDMENT.—The table of contents  
10 in section 1 of the Act entitled “An Act to authorize the  
11 Hydrographic Services Improvement Act of 1998, and for  
12 other purposes” (Public Law 107–372) is amended by in-  
13 serting after the item relating to section 215 the following:

“Sec. 216. Obligated service requirement.”.

14 **SEC. 104. TRAINING AND PHYSICAL FITNESS.**

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

18 **“SEC. 217. TRAINING AND PHYSICAL FITNESS.**

19 “(a) TRAINING.—The Secretary may take such meas-  
20 ures as may be necessary to ensure that officers are pre-  
21 pared to carry out their duties in the commissioned officer  
22 corps of the Administration and proficient in the skills  
23 necessary to carry out such duties. Such measures may  
24 include the following:



1           “(1) Carrying out training programs and cor-  
2           respondence courses, including establishing and op-  
3           erating a basic officer training program to provide  
4           initial indoctrination and maritime vocational train-  
5           ing for officer candidates as well as refresher train-  
6           ing, mid-career training, aviation training, and such  
7           other training as the Secretary considers necessary  
8           for officer development and proficiency.

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

11          “(3) Acquiring such equipment as may be nec-  
12          essary for training and instructional purposes.

13          “(b) PHYSICAL FITNESS.—The Secretary shall en-  
14          sure that officers maintain a high physical state of readi-  
15          ness by establishing standards of physical fitness for offi-  
16          cers that are substantially equivalent to those prescribed  
17          for officers in the Coast Guard.”.

18          (b) CLERICAL AMENDMENT.—The table of contents  
19          in section 1 of the Act entitled “An Act to authorize the  
20          Hydrographic Services Improvement Act of 1998, and for  
21          other purposes” (Public Law 107–372), as amended by  
22          section 103(b), is further amended by inserting after the  
23          item relating to section 216 the following:

“Sec. 217. Training and physical fitness.”.

1 **SEC. 105. AVIATION ACCESSION TRAINING PROGRAMS.**

2 (a) IN GENERAL.—Subtitle A (33 U.S.C. 3001 et  
3 seq.), as amended by section 104(a), is further amended  
4 by adding at the end the following:

5 **“SEC. 218. AVIATION ACCESSION TRAINING PROGRAMS.**

6 “(a) DEFINITIONS.—In this section:

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

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

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

19 “(b) AVIATION ACCESSION TRAINING PROGRAMS.—

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

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

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

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

12                  “(C) that is located—

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

16                          “(ii) in a geographic area that—

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

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

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

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

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

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

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

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

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

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

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

3 “(c) MEMBERSHIP.—

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

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

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

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

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

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

18 “(D) enroll in—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23               “(B) against equity and good conscience;

24       or



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

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

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

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

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

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

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

5 **“SEC. 219. USE OF RECRUITING MATERIALS FOR PUBLIC**  
6 **RELATIONS.**

7 “The Secretary may use for public relations purposes  
8 of the Department of Commerce any advertising materials  
9 developed for use for recruitment and retention of per-  
10 sonnel for the commissioned officer corps of the Adminis-  
11 tration. Any such use shall be under such conditions and  
12 subject to such restrictions as the Secretary shall pre-  
13 scribe.”.

14 (b) CLERICAL AMENDMENT.—The table of contents  
15 in section 1 of the Act entitled “An Act to authorize the  
16 Hydrographic Services Improvement Act of 1998, and for  
17 other purposes” (Public Law 107–372), as amended by  
18 section 105(b), is further amended by inserting after the  
19 item relating to section 217 the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(d) LOAN REPAYMENTS.—

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

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

17 “(e) ACTIVE DUTY SERVICE OBLIGATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

13           (b) CLERICAL AMENDMENT.—The table of contents  
14 in section 1 of the Act entitled “An Act to authorize the  
15 Hydrographic Services Improvement Act of 1998, and for  
16 other purposes” (Public Law 107–372) is amended by in-  
17 serting after the item relating to section 266 the following:

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

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

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

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

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

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

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

5 “(1) is serving on active duty;

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

5       (b) CONFORMING AMENDMENTS.—

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

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

12           (B) in paragraph (1)—

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

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

21           (2) Sections 455(l) and 464(j) of the Higher  
22 Education Act of 1965 (20 U.S.C. 1087e(l) and  
23 1087dd(j)) are each amended—

24           (A) by striking the subsection heading and  
25 inserting “ARMED FORCES AND NOAA COM-

1 MISSIONED OFFICER CORPS STUDENT LOAN  
 2 INTEREST PAYMENT PROGRAMS’; and

3 (B) in paragraph (1)—

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

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

12 (c) CLERICAL AMENDMENT.—The table of contents  
 13 in section 1 of the Act entitled “An Act to authorize the  
 14 Hydrographic Services Improvement Act of 1998, and for  
 15 other purposes” (Public Law 107–372), as amended by  
 16 section 201(b), is further amended by inserting after the  
 17 item relating to section 267 the following:

“Sec. 268. Interest payment program.”.

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

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

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

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

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

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

10           “(2) a postbaccalaureate degree.

11           “(b) ELIGIBLE PERSONS.—

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

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

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

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

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

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

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

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

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

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

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

19                   “(2) The cost of educational materials.

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

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

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

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

11       “(f) SUBSISTENCE ALLOWANCE.—

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

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

23       “(g) INITIAL CLOTHING ALLOWANCE.—

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

1 ceives financial assistance under subsection (a) to  
2 cover the cost of the person's initial clothing and  
3 equipment issue.

4 “(2) APPOINTMENT.—Upon completion of the  
5 program of education for which a person receives fi-  
6 nancial assistance under subsection (a) and accept-  
7 ance of appointment in the commissioned officer  
8 corps of the Administration, the person may be  
9 issued a subsequent clothing allowance equivalent to  
10 that normally provided to a newly appointed officer.

11 “(h) TERMINATION OF FINANCIAL ASSISTANCE.—

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

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

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

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

23 “(2) REIMBURSEMENT.—The Secretary may re-  
24 quire a person who receives assistance described in  
25 subsection (c), (f), or (g) under an agreement en-

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

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

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

15               “(B) is—

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (b) EXTENSION OF CERTAIN AUTHORITIES.—

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

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

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

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

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

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

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

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

20                   (A) in subsection (a)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 other purposes” (Public Law 107–372) is amended by in-  
2 serting after the item relating to section 261 the following:

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (b) CLERICAL AMENDMENT.—The table of contents  
14 in section 1 of the Act entitled “An Act to authorize the  
15 Hydrographic Services Improvement Act of 1998, and for  
16 other purposes” (Public Law 107–372) is amended by in-  
17 serting after the item relating to section 269, as added  
18 by section 203, the following new item:

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

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

### 21 **SEC. 301. APPOINTMENTS.**

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

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

3 “(a) ORIGINAL APPOINTMENTS.—

4 “(1) GRADES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15           “(b) REAPPOINTMENT.—

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

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

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

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

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

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

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



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

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

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

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

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

13       **“SEC. 222. PERSONNEL BOARDS.**

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

18           “(b) MEMBERSHIP.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **SEC. 303. POSITIONS OF IMPORTANCE AND RESPONSIB-**  
2 **BILITY.**

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

4 (1) in subsection (c)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Sec. 229. Temporary appointments.”.

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

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

7 **“SEC. 234. OFFICER CANDIDATES.**

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

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

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

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

3 “(d) AGREEMENT.—

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

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

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

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

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

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

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

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

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

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

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

          “Sec. 234. Officer candidates.”.

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

17                 (1) by redesignating paragraphs (4) through  
18                 (6) as paragraphs (5) through (7), respectively; and

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

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



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

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

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

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

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

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

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

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

“235. Procurement of personnel.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17       “(f) PAY AND ALLOWANCES.—

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

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

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

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

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

22 “(3) RETURN TO ACTIVE DUTY.—

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

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

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

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

18 “(B) LIMITATION.—

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

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

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

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

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

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

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

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

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

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



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

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

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

13                  “(g) PROMOTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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