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

IN THE SENATE OF THE UNITED STATES

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

A BILL

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.
Sec. 2. References to National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002.

TITLE I—GENERAL PROVISIONS

Sec. 101. Strength and distribution in grade.
Sec. 102. Recalled officers.
Sec. 103. Obligated service requirement.
Sec. 104. Training and physical fitness.
Sec. 105. Aviation accession training programs.
Sec. 106. Recruiting materials.
Sec. 107. Procurement of charting and survey services.
Sec. 108. Technical correction.

TITLE II—PARITY AND RECRUITMENT

Sec. 201. Education loans.
Sec. 202. Interest payments.
Sec. 203. Student pre-commissioning program.
Sec. 204. Limitation on educational assistance.
Sec. 205. Applicability of certain provisions of title 10, United States Code, and extension of certain authorities applicable to members of the Armed Forces to commissioned officer corps.
Sec. 206. Applicability of certain provisions of title 37, United States Code.
Sec. 207. Prohibition on retaliatory personnel actions.
Sec. 208. Application of certain provisions of competitive service law.
Sec. 209. Employment and reemployment rights.
Sec. 210. Treatment of commission in commissioned officer corps for purposes of certain hiring decisions.

TITLE III—APPOINTMENTS AND PROMOTION OF OFFICERS

Sec. 301. Appointments.
Sec. 302. Personnel boards.
Sec. 303. Positions of importance and responsibility.
Sec. 304. Temporary appointments.
Sec. 305. Officer candidates.
Sec. 306. Procurement of personnel.
Sec. 307. Career intermission program.

TITLE IV—SEPARATION AND RETIREMENT OF OFFICERS

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

1 SEC. 2. REFERENCES TO NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS ACT OF 2002.

2 Exception as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provi-
sion, the reference shall be considered to be made to a
section or other provision of the National Oceanic and At-
mospheric Administration Commissioned Officer Corps
Act of 2002 (33 U.S.C. 3001 et seq.).

**TITLE I—GENERAL PROVISIONS**

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

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

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

“(a) **GRADES.**—The commissioned grades in the com-
missioned officer corps of the Administration are the fol-
lowing, 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 computa-
tion to determine the number of officers on the lin-
eal list authorized to be serving in each grade.

“(2) METHOD OF COMPUTATION.—The number
in each grade shall be computed by applying the ap-
plicable percentage to the total number of such offi-
cers serving on active duty on the date the computa-
tion 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 $\frac{1}{2}$, 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 RESPO-
NSIBILITY.—Officers serving in positions designated under
section 228(a) and officers recalled from retired status
shall not be counted when computing authorized strengths
under subsection (c) and shall not count against those strengths.

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

**SEC. 102. RECALLED OFFICERS.**

(a) In General.—Section 215 (33 U.S.C. 3005) is amended to read as follows:

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

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

SEC. 103. OBLIGATED SERVICE REQUIREMENT.

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

“SEC. 216. OBLIGATED SERVICE REQUIREMENT.

“(a) In General.—

“(1) Regulations.—The Secretary shall prescribe the obligated service requirements for appointments, training, promotions, separations, continuations, and retirement 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, 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 5 years after the termination of a written agreement entered into under subsection (a)(2) does not discharge the individual signing the agreement from a debt arising under such agreement.

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

“(1) becomes unqualified to serve on active duty in the commissioned officer corps of the Administration because of a circumstance not within the control of 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.”.

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

“Sec. 216. Obligated service requirement.”.

SEC. 104. TRAINING AND PHYSICAL FITNESS.

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

“SEC. 217. TRAINING AND PHYSICAL FITNESS.

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

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

“(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.”.

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

“Sec. 217. Training and physical fitness.”.
SEC. 105. AVIATION ACCESSION TRAINING PROGRAMS.

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

“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 in-
stitution—

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

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

“(C) that is located—

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

and

“(ii) in a geographic area that—

“(I) experiences a wide variation
in climate-related activity, including
frequent high winds, convective activ-
ity (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 fu-
ture encounters during their service in
the commissioned officer corps; and

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

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

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

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

“(3) **LIMITATIONS IN CONNECTION WITH PAR-
TICULAR 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 who
is assigned as an advisor to the program at that
institution is given the academic rank of ad-
junct professor; and

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

“(4) **MEMBERSHIP IN CONNECTION WITH STA-
TUS AS STUDENT.**—At institutions at which the pro-
gram 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 Admin-
istrator, to—

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

“(ii) to serve in the commissioned officer corps for not fewer than 4 years;

“(D) enroll in—

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

“(ii) other training or education, in-
cluding basic officer training, which is pre-
scribed by the Administrator as meeting
the preliminary requirement for admission to the commissioned officer corps; 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 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 4 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 when of-
fered, 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 (e), 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 ex-
ception to repayment may be granted. The Adminis-
trator 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 sub-
section (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.”.

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

“Sec. 218. Aviation accession training programs.”.
SEC. 106. RECRUITING MATERIALS.

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

“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.”.

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

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

SEC. 107. PROCUREMENT OF CHARTING AND SURVEY SERVICES.

(a) In General.—Not later than 90 days after the development of the strategy required by section 1002(b) of the Frank LoBiondo Coast Guard Authorization Act of 2018 (Public Law 115–282; 132 Stat. 4365), the Sec-
retary of Commerce shall enter into not fewer than 2
multi-year contracts with 1 or more private entities for
the performance of charting and survey services by vessels.

(b) Charting and Surveys in the Arctic.—In
soliciting and engaging the services of vessels under sub-
section (a), the Secretary shall particularly emphasize the
need for charting and surveys in the Arctic.

SEC. 108. TECHNICAL CORRECTION.

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

TITLE II—PARITY AND
RECRUITMENT

SEC. 201. EDUCATION LOANS.

(a) In General.—Subtitle E (33 U.S.C. 3071 et
seq.) is amended by adding at the end the following:

“SEC. 267. EDUCATION LOAN REPAYMENT PROGRAM.

“(a) Authority To Repay Education Loans.—
For the purpose of maintaining adequate numbers of offi-
cers of the commissioned officer corps of the Administra-
tion on active duty who have skills required by the com-
missoned officer corps, the Secretary may repay, in the
case of a person described in subsection (b), a loan that—
“(1) was used by the person to finance edu-
cation; and
“(2) was obtained from a governmental entity, private financial institution, educational institution, or other authorized entity.

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

“(1) satisfy 1 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.

“(2) The person is enrolled as a full-time student in the final year of a course of study at an ac-
credited 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.

“(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 regula-
tions prescribed under subparagraph (A) may
not provide for a period of obligation of less
than 1 year for each maximum annual amount,
or portion thereof, paid on behalf of the person
for qualified loans.

“(3) Persons on active duty before en-
tering into agreement.—The active duty service
obligation of persons on active duty before entering
into the agreement shall be served after the conclu-
sion of any other obligation incurred under the
agreement.

“(4) Concurrent completion of service
obligations.—A service obligation under this sec-
tion may be completed concurrently with a service
obligation under section 216.

“(f) Effect of failure to complete obliga-
tion.—

“(1) Alternative obligations.—An officer
who is relieved of the officer’s active duty obligation
under this section before the completion of that obli-
gation 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.”.

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

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

SEC. 202. INTEREST PAYMENTS.

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

“SEC. 268. INTEREST PAYMENT PROGRAM.

“(a) AUTHORITY.—The Secretary may pay the interest and any special allowances that accrue on 1 or more
student loans of an eligible officer, in accordance with this section.

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

“(1) is serving on active duty;

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

“(3) is the debtor on 1 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).”.

(b) Conforming Amendments.—

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

(A) by striking the subsection heading and inserting “Armed Forces and NOAA Commissioned Officer Corps Student Loan Interest Payment Programs”; and

(B) in paragraph (1)—

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

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

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

(A) by striking the subsection heading and inserting “Armed Forces and NOAA Com-
missioned Officer Corps Student Loan Interest Payment Programs”; and

(B) in paragraph (1)—

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

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

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

“Sec. 268. Interest payment program.”.

SEC. 203. STUDENT PRE-COMMISSIONING PROGRAM.

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

“SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION 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 5 academic years; or

“(2) a postbaccalaureate degree.

“(b) ELIGIBLE PERSONS.—

“(1) IN GENERAL.—A person is eligible to obtain financial assistance under subsection (a) if 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 3 years if the person received less than 3 years of assistance; and

“(ii) up to 5 years if the person received at least 3 years of assistance.

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

“(1) Tuition and fees charged by the 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 5 consecutive academic years.

“(f) SUBSISTENCE ALLOWANCE.—

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

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

“(g) INITIAL CLOTHING ALLOWANCE.—

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

“(2) APPOINTMENT.—Upon completion of the
program of education for which a person receives fi-
nancial assistance under subsection (a) and accept-
ance 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 termi-
nate 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 re-
quire a person who receives assistance described in
subsection (e), (f), or (g) under an agreement en-
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 per-
son—

“(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 ap-
pointment; and

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

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

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

“(i) Regulations.—The Secretary may 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.”.

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

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

SEC. 204. LIMITATION ON EDUCATIONAL ASSISTANCE.

(a) In General.—Each fiscal year, beginning with the fiscal year in which this Act is enacted, the Secretary
of Commerce shall ensure that the total amount expended
by the Secretary under section 267 of the National Oce-
anic and Atmospheric Administration Commissioned Offi-
cer Corps Act of 2002 (as added by section 201(a)), sec-
tion 268 of such Act (as added by section 202(a)), and
section 269 of such Act (as added by section 203(a)) does
not exceed the amount by which—

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

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

(b) OFFICER CANDIDATE DEFINED.—In this section,
the term “officer candidate” has the meaning given the
term in paragraph (4) of section 212(b) of the National
Oceanic and Atmospheric Administration Commissioned
Officer Corps Act of 2002 (33 U.S.C. 3002), as added
by section 305(e).
SEC. 205. APPLICABILITY OF CERTAIN PROVISIONS OF

TITLE 10, UNITED STATES CODE, AND EXTENSION

OF CERTAIN AUTHORITIES APPLICABLE

to Members of the Armed Forces to

Commissioned Officer Corps.

(a) Applicability of Certain Provisions of

Title 10.—Section 261(a) (33 U.S.C. 3071(a)) is amended—

(1) by redesignating paragraphs (13) through

(16) as paragraphs (22) through (25), respectively;

(2) by redesignating paragraphs (7) through

(12) as paragraphs (14) through (19), respectively;

(3) by redesignating paragraphs (4) through

(6) as paragraphs (8) through (10), respectively;

(4) by inserting after paragraph (3) the follow-

(5) by inserting after paragraph (10), as redes-

ignated, the following:

“(4) Section 771, relating to unauthorized

wearing of uniforms.

“(5) Section 774, relating to wearing religious

apparel while in uniform.

“(6) Section 982, relating to service on State

and local juries.

“(7) Section 1031, relating to administration of

oaths.”;

(5) by inserting after paragraph (10), as redes-

ignated, the following:
“(11) Section 1074n, relating to annual mental health assessments.

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

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

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

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

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

(b) EXTENSION OF CERTAIN AUTHORITIES.—

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

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

(B) in subsection (b)(4), by striking “armed forces” both places it appears and inserting “uniformed services”.
(2) Acceptance of voluntary services for programs serving members and their families.—Section 1588 of such title is amended—

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

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

“(g) Secretary Concerned for Acceptance of Services for Programs Serving Members of NOAA Corps and Their Families.—For purposes of the acceptance of services described in subsection (a)(3), the term ‘Secretary concerned’ in subsection (a) shall include the Secretary of Commerce with respect to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration.”.

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

(A) in subsection (a)—

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

and

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

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

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

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

“(a) Provisions Made Applicable to Commissioned Officer Corps.—The provisions of law applicable to the Armed Forces under the following provisions of title 37, United States Code, shall apply to the commissioned officer corps of the Administration:

“(1) Section 324, relating to 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.”.

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

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of the Act entitled “An Act to authorize the Hydrographic Services Improvement Act of 1998, and for
other purposes” (Public Law 107–372) is amended by inserting 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 ACTIONS.

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

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

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

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

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by adding at the end the following: “For purposes of paragraph (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.—Such section is further amended by adding at the end the following:
“(c) Regulations Regarding Protected Communications and Prohibition of Retaliatory Personnel Actions.—The Secretary may 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. 208. APPLICATION OF CERTAIN PROVISIONS OF COMPETITIVE SERVICE LAW.

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

(1) in paragraph (1), by inserting “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” after “separated from the armed forces”;

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

(3) in paragraph (4), by inserting “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” after “separated from the armed forces”.

SEC. 209. EMPLOYMENT AND REEMPLOYMENT RIGHTS.

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

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

(a) In General.—Subtitle E (33 U.S.C. 3071 et seq.), as amended by this title, is further amended by adding at the end the following:

“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 for at least 3 years...
to be serving in a career or career-conditional position in
the competitive service within the Administration for pur-
poses of such limitation.

“(b) CAREER APPOINTMENTS.—If the Secretary se-
lects 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 ap-
propriate.

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

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

TITLE III—APPOINTMENTS AND
PROMOTION OF OFFICERS

SEC. 301. APPOINTMENTS.

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

“(a) ORIGINAL APPOINTMENTS.—

“(1) GRADES.—

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

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

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

“(B) APPOINTMENT OF OFFICER CANDIDATES.—

“(i) LIMITATION ON GRADE.—An original appointment of an officer 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 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 fol-
lowing:

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

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

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

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

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

“(iii) obtained an unlimited tonnage
or unlimited horsepower Merchant Mariner
Credential from the United States Coast
Guard.
“(D) Licensed officers of the United States merchant marine who have served 2 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.


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

“(e) Inter-Service Transfers.—For inter-service transfers (as described in the Department of Defense 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.”.

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

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

**SEC. 302. PERSONNEL BOARDS.**

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

**“SEC. 222. PERSONNEL BOARDS.**

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

“(b) **MEMBERSHIP.**—

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

“(2) **RETIRED OFFICERS.**—Officers on the retired list may be recalled to serve on such personnel boards as the Secretary considers necessary.
“(3) No membership on 2 successive boards.—No officer may be a member of 2 successive personnel boards convened to consider officers of the same grade for promotion or separation.

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

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

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

“(d) Action on recommendations not acceptable.—If any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further 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 subsection (a) 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.”.
SEC. 303. POSITIONS OF IMPORTANCE AND RESPONSIBILITY.

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

(1) in subsection (c)—

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

(B) in the second sentence, by striking “That position shall be filled by” and inserting “The President shall fill that position by appointing, by and with the advice and consent of the Senate,”;

(2) in subsection (d)(2), by inserting “or immediately beginning a period of terminal leave” after “for which a higher grade is designated”;

(3) by amending subsection (e) to read as follows:

“(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.”; and

(4) in subsection (f), by inserting “or in a period of annual leave used at the end of the appointment” after “serving in that grade”.

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SEC. 304. TEMPORARY APPOINTMENTS.

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

“SEC. 229. TEMPORARY APPOINTMENTS.

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

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

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

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

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

“Sec. 229. Temporary appointments.”.

SEC. 305. OFFICER CANDIDATES.

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

“SEC. 234. OFFICER CANDIDATES.

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

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

“(c) DISMISSAL.—The Secretary may dismiss from the basic officer training program of the Administration any officer candidate who, during the officer candidate’s term as an officer candidate, the Secretary considers unsatisfactory in either academics or conduct, or not adapted for a career in the commissioned officer corps of the Administration. Officer candidates shall be subject to rules governing discipline prescribed by the Director of the Na-
tional 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 4 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).”.

(b) Clerical Amendment.—The table of contents in section 1 of the Act entitled “An Act to authorize the Hydrographic Services Improvement Act of 1998, and for other purposes” (Public Law 107–372) is amended by inserting after the item relating to section 233 the following:

“Sec. 234. Officer candidates.”.

(c) Officer Candidate Defined.—Section 212(b) (33 U.S.C. 3002(b)) is amended—

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

(2) by inserting after paragraph (3) the following:

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

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

SEC. 306. PROCUREMENT OF PERSONNEL.

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

“SEC. 235. PROCUREMENT OF PERSONNEL.

“The Secretary may make such expenditures as the Secretary considers necessary in order to obtain recruits for the commissioned officer corps of the Administration, including advertising.”.
(b) Clerical Amendment.—The table of contents in section 1 of the Act entitled “An Act to authorize the Hydrographic Services Improvement Act of 1998, and for other purposes” (Public Law 107–372), as amended by section 305(b), is further amended by inserting after the item relating to section 234 the following:

“235. Procurement of personnel.”.

SEC. 307. CAREER INTERMISSION PROGRAM.

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

“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 3 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 2 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 (2) 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 (e).

“(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, 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; and

“(2) retirement or separation for physical disability under the provisions of subtitle C.”.

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

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

TITLE IV—SEPARATION AND RETIREMENT OF OFFICERS

SEC. 401. INVOLUNTARY RETIREMENT OR SEPARATION.

Section 241 (33 U.S.C. 3041) is amended by adding at the end the following:
“(d) **Deferment of Retirement or Separation for Medical Reasons.**—

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

“(2) **Consent Required.**—A deferment may only be made with the written consent of the officer involved. If the officer does not provide written 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. 402. Separation Pay.**

Section 242 (33 U.S.C. 3042) is amended by adding at the end the following:
“(d) EXCEPTION.—An officer discharged for twice failing selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer—

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

“(2) requests removal from the list of selectees.”.