

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2406
OFFERED BY MR. GRIJALVA OF ARIZONA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

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

TITLE I—GENERAL PROVISIONS

- Sec. 101. Strength and distribution in grade.
- Sec. 102. Recalled officers.
- Sec. 103. Obligated service requirement.
- Sec. 104. Training and physical fitness.
- Sec. 105. Recruiting materials.
- Sec. 106. Technical correction.

TITLE II—PARITY AND RECRUITMENT

- Sec. 201. Education loans.
- Sec. 202. Interest payments.
- Sec. 203. Student pre-commissioning program.
- Sec. 204. Limitation on educational assistance.
- Sec. 205. Applicability of certain provisions of title 10, United States Code, and
extension of certain authorities applicable to members of the
Armed Forces to commissioned officer corps.
- Sec. 206. Applicability of certain provisions of title 37, United States Code.
- Sec. 207. 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. Assistant Administrator of the Office of Marine and Aviation Operations.

Sec. 304. Temporary appointments.

Sec. 305. Officer candidates.

Sec. 306. Procurement of personnel.

Sec. 307. Authority for officers to opt out of promotion board consideration.

Sec. 308. Career intermission program.

TITLE IV—SEPARATION AND RETIREMENT OF OFFICERS

Sec. 401. Involuntary retirement or separation.

Sec. 402. Separation pay.

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

4 Except as otherwise expressly provided, any place in
5 this Act an amendment or repeal is expressed in terms
6 of an amendment to, or repeal of, a section or other provi-
7 sion, the reference shall be considered to be made to a
8 section or other provision of the National Oceanic and At-
9 mospheric Administration Commissioned Officer Corps
10 Act of 2002 (33 U.S.C. 3001 et seq.).

11 TITLE I—GENERAL PROVISIONS

12 SEC. 101. STRENGTH AND DISTRIBUTION IN GRADE.

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

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

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

5 “(1) Vice admiral.

6 “(2) Rear admiral.

7 “(3) Rear admiral (lower half).

8 “(4) Captain.

9 “(5) Commander.

10 “(6) Lieutenant commander.

11 “(7) Lieutenant.

12 “(8) Lieutenant (junior grade).

13 “(9) Ensign.

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

18 “(c) ANNUAL COMPUTATION OF NUMBER IN
19 GRADE.—

20 “(1) IN GENERAL.—Not less frequently than
21 once each year, the Secretary shall determine the
22 number of officers on the lineal list authorized to be
23 serving in each grade.

24 “(2) METHOD OF DETERMINATION.—The num-
25 ber in each grade shall be determined by applying
26 the applicable percentage to the total number of

1 such officers serving on active duty on the date the
2 computation is made.

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

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

13 “(e) POSITIONS OF IMPORTANCE AND RESPONSI-
14 BILITY.—Officers serving in positions designated under
15 section 228(a) and officers recalled from retired status
16 shall not be counted when computing authorized strengths
17 under subsection (c) and shall not count against those
18 strengths.

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

24 **SEC. 102. RECALLED OFFICERS.**

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

1 (1) by striking “Effective October 1, 2009, the”
2 and inserting “(a) IN GENERAL.—The”;

3 (2) by striking “be increased from 321 to 379
4 if—” and all that follows through “fiscal year.” and
5 inserting “not to exceed 500.”; and

6 (3) by adding at the end the following new sub-
7 section:

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

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

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

16 **SEC. 103. OBLIGATED SERVICE REQUIREMENT.**

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

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

20 “(a) IN GENERAL.—

21 “(1) REGULATIONS.—The Secretary shall pre-
22 scribe the obligated service requirements for appoint-
23 ments, training, promotions, separations, continu-
24 ations, and retirement of officers not otherwise cov-
25 ered by law.

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

7 “(b) REPAYMENT FOR FAILURE TO SATISFY RE-
8 QUIREMENTS.—

9 “(1) IN GENERAL.—The Secretary may require
10 an officer who fails to meet the service requirements
11 prescribed under subsection (a)(1) to reimburse the
12 Secretary in an amount that bears the same ratio to
13 the total costs of the training provided to that offi-
14 cer by the Secretary as the unserved portion of ac-
15 tive duty bears to the total period of active duty the
16 officer agreed to serve.

17 “(2) OBLIGATION AS DEBT TO UNITED
18 STATES.—An obligation to reimburse the Secretary
19 under paragraph (1) shall be considered for all pur-
20 poses as a debt owed to the United States.

21 “(3) DISCHARGE IN BANKRUPTCY.—A dis-
22 charge in bankruptcy under title 11 that is entered
23 less than 5 years after the termination of a written
24 agreement entered into under subsection (a)(2) does

1 not discharge the individual signing the agreement
2 from a debt arising under such agreement.

3 “(c) WAIVER OR SUSPENSION OF COMPLIANCE.—

4 The Secretary may waive the service obligation of an offi-
5 cer who—

6 “(1) becomes unqualified to serve on active
7 duty in the commissioned officer corps of the Ad-
8 ministration because of a circumstance not within
9 the control of such officer; or

10 “(2) is—

11 “(A) not physically qualified for appoint-
12 ment; and

13 “(B) determined to be unqualified for serv-
14 ice in the commissioned officer corps of the Ad-
15 ministration because of a physical or medical
16 condition that was not the result of the officer’s
17 own misconduct or grossly negligent conduct.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 in section 1 of the Hydrographic Services Improvement
20 Act Amendments of 2002 (Public Law 107–372) is
21 amended by inserting after the item relating to section
22 215 the following:

“Sec. 216. Obligated service requirement.”.

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

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

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

6 “(a) TRAINING.—The Secretary may take such meas-
7 ures as may be necessary to ensure that officers are pre-
8 pared to carry out their duties in the commissioned officer
9 corps of the Administration and proficient in the skills
10 necessary to carry out such duties. Such measures may
11 include the following:

12 “(1) Carrying out training programs and cor-
13 respondence courses, including establishing and op-
14 erating a basic officer training program to provide
15 initial indoctrination and maritime vocational train-
16 ing for officer candidates as well as refresher train-
17 ing, mid-career training, aviation training, and such
18 other training as the Secretary considers necessary
19 for officer development and proficiency.

20 “(2) Providing officers and officer candidates
21 with educational materials and school supplies.

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

24 “(b) PHYSICAL FITNESS.—The Secretary shall en-
25 sure that officers maintain a high physical state of readi-
26 ness by establishing standards of physical fitness for offi-

1 cers that are substantially equivalent to those prescribed
2 for officers of the Coast Guard.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 in section 1 of the Hydrographic Services Improvement
5 Act Amendments of 2002 (Public Law 107–372), as
6 amended by this Act, is further amended by inserting after
7 the item relating to section 216 the following:

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

8 **SEC. 105. RECRUITING MATERIALS.**

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

12 **“SEC. 218. USE OF RECRUITING MATERIALS FOR PUBLIC**
13 **RELATIONS.**

14 “The Secretary may use for public relations purposes
15 of the Department of Commerce any advertising materials
16 developed for use for recruitment and retention of per-
17 sonnel for the commissioned officer corps of the Adminis-
18 tration.”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 in section 1 of the Hydrographic Services Improvement
21 Act Amendments of 2002 (Public Law 107–372), as
22 amended by this Act, is further amended by inserting after
23 the item relating to section 217 the following:

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

1 **SEC. 106. TECHNICAL CORRECTION.**

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

5 **TITLE II—PARITY AND**
6 **RECRUITMENT**

7 **SEC. 201. EDUCATION LOANS.**

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

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

11 “(a) AUTHORITY TO REPAY EDUCATION LOANS.—
12 For the purpose of maintaining an adequate number of
13 officers on active duty possessing the skills required by
14 the commissioned officer corps, the Secretary may repay,
15 in the case of a person described in subsection (b), a loan
16 that—

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

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

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

24 “(1) satisfy 1 of the requirements specified in
25 subsection (c);

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

4 “(3) sign a written agreement to serve on active
5 duty, or, if on active duty, to remain on active duty
6 for a period in addition to any other incurred active
7 duty obligation, except as provided in subsection
8 e(e)(4).

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

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

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

24 “(d) LOAN REPAYMENTS.—

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

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

12 “(e) ACTIVE DUTY SERVICE OBLIGATION.—

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

16 “(2) LENGTH OF OBLIGATION DETERMINED
17 UNDER REGULATIONS.—

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

22 “(B) MINIMUM OBLIGATION.—The regula-
23 tions prescribed under subparagraph (A) may
24 not provide for a period of obligation of less
25 than 1 year for each maximum annual amount,

1 or portion thereof, paid on behalf of the person
2 for qualified loans.

3 “(3) PERSONS ON ACTIVE DUTY BEFORE EN-
4 TERING INTO AGREEMENT.—The active duty service
5 obligation of persons on active duty before entering
6 into the agreement shall be served after the conclu-
7 sion of any other obligation incurred under the
8 agreement, except as provided in paragraph (4),

9 “(4) CONCURRENT SERVICE OBLIGATION.—A
10 service obligation under this section may be com-
11 pleted concurrently with a service obligation under
12 section 216.

13 “(f) EFFECT OF FAILURE TO COMPLETE OBLIGA-
14 TION.—

15 “(1) ALTERNATIVE OBLIGATIONS.—An officer
16 who is relieved of the officer’s active duty obligation
17 under this section before the completion of that obli-
18 gation may be given any alternative obligation, at
19 the discretion of the Secretary.

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

1 “(g) REGULATIONS.—The Secretary shall prescribe
2 regulations to carry out this section, including—

3 “(1) standards for qualified loans and author-
4 ized payees; and

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

7 (b) CLERICAL AMENDMENT.—The table of contents
8 in section 1 of the Hydrographic Services Improvement
9 Act Amendments of 2002 (Public Law 107–372), as
10 amended by this Act, is further amended by inserting after
11 the item relating to section 266 the following:

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

12 **SEC. 202. INTEREST PAYMENTS.**

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

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

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

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

23 “(1) is serving on active duty;

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

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

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

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

7 “(1) A loan made, insured, or guaranteed under
8 part B of title IV of the Higher Education Act of
9 1965 (20 U.S.C. 1071 et seq.).

10 “(2) A loan made under part D of such title
11 (20 U.S.C. 1087a et seq.).

12 “(3) A loan made under part E of such title
13 (20 U.S.C. 1087aa et seq.).

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

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

22 “(f) COORDINATION WITH SECRETARY OF EDU-
23 CATION.—

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

4 “(2) TRANSFER OF FUNDS.—The Secretary
5 shall transfer to the Secretary of Education the
6 funds necessary—

7 “(A) to pay interest and special allowances
8 on student loans under this section (in accord-
9 ance with sections 428(o), 455(l), and 464(j) of
10 the Higher Education Act of 1965 (20 U.S.C.
11 1078(o), 1087e(l), and 1087dd(j)); and

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

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

24 (b) CONFORMING AMENDMENTS.—

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

3 (A) by striking the subsection heading and
4 inserting “ARMED FORCES AND NOAA COM-
5 MISSIONED OFFICER CORPS STUDENT LOAN
6 INTEREST PAYMENT PROGRAMS”; and

7 (B) in paragraph (1)—

8 (i) by inserting “or section 268 of the
9 National Oceanic and Atmospheric Admin-
10 istration Commissioned Officer Corps Act
11 of 2002” after “Code,”; and

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

16 (2) Sections 455(l) and 464(j) of the Higher
17 Education Act of 1965 (20 U.S.C. 1087e(l) and
18 1087dd(j)) are each amended—

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

23 (B) in paragraph (1)—

24 (i) by inserting “or section 268 of the
25 National Oceanic and Atmospheric Admin-

1 istration Commissioned Officer Corps Act
2 of 2002” after “Code,”; and

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

7 (c) CLERICAL AMENDMENT.—The table of contents
8 in section 1 of the Hydrographic Services Improvement
9 Act Amendments of 2002 (Public Law 107–372), as
10 amended by this Act, is further amended by inserting after
11 the item relating to section 267 the following:

“Sec. 268. Interest payment program.”.

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

13 (a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et
14 seq.), as amended by section 202(a) of this Act, is further
15 amended by adding at the end the following:

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

18 “(a) AUTHORITY TO PROVIDE FINANCIAL ASSIST-
19 ANCE.—For the purpose of maintaining adequate numbers
20 of officers of the commissioned officer corps of the Admin-
21 istration on active duty, the Secretary may provide finan-
22 cial assistance to a person described in subsection (b) for
23 expenses of such person while such person is pursuing on
24 a full-time basis at an accredited educational institution

1 (as determined by the Secretary of Education) a program
2 of education approved by the Secretary that leads to—

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

5 “(2) a postbaccalaureate degree.

6 “(b) ELIGIBLE PERSONS.—

7 “(1) IN GENERAL.—A person is eligible to ob-
8 tain financial assistance under subsection (a) if such
9 person—

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

14 “(B) meets all of the requirements for ac-
15 ceptance into the commissioned officer corps of
16 the Administration except for the completion of
17 a baccalaureate degree; and

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

20 “(2) AGREEMENT.—A written agreement re-
21 ferred to in paragraph (1)(C) is an agreement be-
22 tween such person and the Secretary in which such
23 person—

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

1 “(B) upon completion of such person’s
2 educational program, agrees to serve on active
3 duty, immediately after appointment, for—

4 “(i) up to 3 years if such person re-
5 ceived less than 3 years of assistance; and

6 “(ii) up to 5 years if such person re-
7 ceived at least 3 years of assistance.

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

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

13 “(2) The cost of educational materials.

14 “(3) In the case of a program of education
15 leading to a baccalaureate degree, laboratory ex-
16 penses.

17 “(4) Such other expenses as the Secretary con-
18 siders appropriate.

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

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

4 “(f) SUBSISTENCE ALLOWANCE.—

5 “(1) IN GENERAL.—A person who receives fi-
6 nancial assistance under subsection (a) shall be enti-
7 tled to a monthly subsistence allowance at a rate
8 prescribed under paragraph (2) for the duration of
9 the period for which the person receives such finan-
10 cial assistance.

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

16 “(g) INITIAL CLOTHING ALLOWANCE.—

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

22 “(2) APPOINTMENT.—Upon completion of the
23 program of education for which a person receives fi-
24 nancial assistance under subsection (a) and accept-
25 ance of appointment in the commissioned officer

1 corps of the Administration, the person may be
2 issued a subsequent clothing allowance equivalent to
3 that normally provided to a newly appointed officer.

4 “(h) TERMINATION OF FINANCIAL ASSISTANCE.—

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

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

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

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

16 “(2) REIMBURSEMENT.—The Secretary may re-
17 quire a person who receives assistance described in
18 subsection (e), (f), or (g) under an agreement en-
19 tered into under subsection (b)(1)(C) to reimburse
20 the Secretary in an amount that bears the same
21 ratio to the total costs of the assistance provided to
22 that person as the unserved portion of active duty
23 bears to the total period of active duty the officer
24 agreed to serve under the agreement.

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

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

9 “(B) is—

10 “(i) not physically qualified for ap-
11 pointment; and

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

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

22 “(5) DISCHARGE IN BANKRUPTCY.—A dis-
23 charge in bankruptcy under title 11, United States
24 Code, that is entered less than 5 years after the ter-
25 mination of a written agreement entered into under

1 subsection (b)(1)(C) does not discharge the person
2 signing the agreement from a debt arising under
3 such agreement or under paragraph (2).

4 “(i) REGULATIONS.—The Secretary may promulgate
5 such regulations and orders as the Secretary considers ap-
6 propriate to carry out this section.

7 “(j) CONCURRENT SERVICE OBLIGATION.—Any serv-
8 ice obligation under this section may be completed concur-
9 rently with any service obligation under section 216.

10 “(k) MINORITY INSTITUTIONS.—In carrying out this
11 section, the Secretary may prioritize persons described in
12 subsection (b) who attend minority institutions as defined
13 by section 365(3) of the Higher Education Act (20 U.S.C.
14 1067k(3)).”.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 in section 1 of the Hydrographic Services Improvement
17 Act Amendments of 2002 (Public Law 107–372), as
18 amended by this Act, is further amended by inserting after
19 the item relating to section 268 the following:

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

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

21 (a) IN GENERAL.—Each fiscal year, beginning with
22 the fiscal year in which this Act is enacted, the Secretary
23 of Commerce shall ensure that the total amount expended
24 by the Secretary under sections 267 through 269 of the
25 National Oceanic and Atmospheric Administration Com-

1 missioned Officer Corps Act of 2002, as amended by this
2 Act, does not exceed the amount by which—

3 (1) the total amount the Secretary would pay in
4 that fiscal year to officer candidates under section
5 203(f)(1) of title 37, United States Code (as added
6 by section 305(d)), if such section entitled officers
7 candidates to pay at monthly rates equal to the
8 basic pay of a commissioned officer in the pay grade
9 O-1 with less than 2 years of service; exceeds

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

13 (b) OFFICER CANDIDATE DEFINED.—In this section,
14 the term “officer candidate” has the meaning given the
15 term in section 212 of the National Oceanic and Atmos-
16 pheric Administration Commissioned Officer Corps Act of
17 2002 (33 U.S.C. 3002), as added by section 305(c).

18 **SEC. 205. APPLICABILITY OF CERTAIN PROVISIONS OF**
19 **TITLE 10, UNITED STATES CODE, AND EXTEN-**
20 **SION OF CERTAIN AUTHORITIES APPLICABLE**
21 **TO MEMBERS OF THE ARMED FORCES TO**
22 **COMMISSIONED OFFICER CORPS.**

23 (a) APPLICABILITY OF CERTAIN PROVISIONS OF
24 TITLE 10.—Section 261(a) (33 U.S.C. 3071(a)) is amend-
25 ed—

1 (1) by redesignating paragraphs (13) through
2 (16) as paragraphs (23) through (26), respectively;

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

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

7 (4) by inserting after paragraph (3) the fol-
8 lowing:

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

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

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

15 “(7) Section 1031, relating to administration of
16 oaths.”;

17 (5) by inserting after paragraph (10), as redesi-
18 gnated, the following:

19 “(11) Section 1074n, relating to annual mental
20 health assessments for members of the Armed
21 Forces.

22 “(12) Section 1090a, relating to commanding
23 officer and supervisor referrals of members for men-
24 tal health evaluations.

1 “(13) Chapter 58, relating to the benefits and
2 services for members being separated or recently
3 separated.”; and

4 (6) by inserting after paragraph (19), as reded-
5 icated, the following:

6 “(20) Subchapter I of chapter 88, relating to
7 military family programs.

8 “(21) Section 2005, relating to advanced edu-
9 cation assistance, active duty agreements, and reim-
10 bursement requirements.

11 “(22) Section 2015, relating to assistance in
12 obtaining professional credentials.”.

13 (b) EXTENSION OF CERTAIN AUTHORITIES.—

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

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

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

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

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

4 (B) by adding at the end the following:

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

13 (3) CAPSTONE COURSE FOR NEWLY SELECTED
14 FLAG OFFICERS.—Section 2153 of such title is
15 amended—

16 (A) in subsection (a)—

17 (i) by inserting “or the commissioned
18 officer corps of the National Oceanic and
19 Atmospheric Administration” after “in the
20 case of the Navy”; and

21 (ii) by striking “other armed forces”
22 and inserting “other uniformed services”;
23 and

24 (B) in subsection (b)(1), in the matter be-
25 fore subparagraph (A), by inserting “or the

1 Secretary of Commerce, as applicable,” after
2 “the Secretary of Defense”.

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

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

8 **“SEC. 261a. APPLICABILITY OF CERTAIN PROVISIONS OF**
9 **TITLE 37, UNITED STATES CODE.**

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

15 “(1) Section 324, relating to special pay and
16 accession bonuses for new officers in critical skills.

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

20 “(3) Section 415, relating to initial uniform al-
21 lowances.

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

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

1 “(b) FIELD DUTY AND SEA DUTY.—The Secretary
2 may prescribe definitions for the terms ‘field duty’ and
3 ‘sea duty’ for the purposes of section 413 of title 37,
4 United States Code with respect to the commissioned offi-
5 cer corps of the Administration.

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

13 (b) PERSONAL MONEY ALLOWANCE.—Section 414 of
14 title 37, United States Code, is amended by inserting “or
15 the Director of the commissioned officer corps of the Na-
16 tional Oceanic and Atmospheric Administration” after
17 “Health Service”.

18 (c) CLERICAL AMENDMENT.—The table of contents
19 in section 1 of the Hydrographic Services Improvement
20 Act Amendments of 2002 (Public Law 107–372), as
21 amended by this Act, is further amended by inserting after
22 the item relating to section 261 the following:

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

1 **SEC. 207. PROHIBITION ON RETALIATORY PERSONNEL AC-**
2 **TIONS.**

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

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

9 (2) by inserting after paragraph (7) the fol-
10 lowing:

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

14 (b) CONFORMING AMENDMENT.—Subsection (b) of
15 such section is amended—

16 (1) by striking “The” and inserting
17 “(a) The”; and

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

19 “(b) For purposes of subsection (a)(8), the term ‘In-
20 spector General’ in section 1034 of title 10 shall mean
21 the Inspector General of the Department of Commerce.”.

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

24 “(c) REGULATIONS REGARDING PROTECTED COM-
25 MUNICATIONS AND PROHIBITION OF RETALIATORY PER-
26 SONNEL ACTIONS.—The Secretary may promulgate regu-

1 lations to carry out section 261(a)(8), including by pro-
2 mulgating such administrative procedures for investiga-
3 tion and appeal within the commissioned officer corps as
4 the Secretary considers appropriate.”.

5 **SEC. 208. APPLICATION OF CERTAIN PROVISIONS OF COM-**
6 **PETITIVE SERVICE LAW.**

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

9 (1) by amending paragraph (1) to read as fol-
10 lows:

11 “(1) The following individuals may not be de-
12 nied the opportunity to compete for vacant positions
13 for which the agency making the announcement will
14 accept applications from individuals outside its own
15 workforce under merit promotion procedures:

16 “(A) Preference eligibles.

17 “(B) Veterans who have been separated
18 from the Armed Forces under honorable condi-
19 tions after 3 years or more of active service.

20 “(C) Members of the commissioned officer
21 corps of the National Oceanic and Atmospheric
22 Administration separated from such officer
23 corps under honorable conditions after 3 years
24 or more of active service.”;

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

3 (3) in paragraph (4), by striking “preference
4 eligibles” and all that follows through “service” and
5 inserting “individuals described in paragraph (1)”.

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

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

11 **SEC. 210. TREATMENT OF COMMISSION IN COMMISSIONED**
12 **OFFICER CORPS FOR PURPOSES OF CERTAIN**
13 **HIRING DECISIONS.**

14 (a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et
15 seq.), as amended by section 206(a) of this Act, is further
16 amended by adding at the end the following:

17 **“SEC. 270. TREATMENT OF COMMISSION IN COMMISSIONED**
18 **OFFICER CORPS AS EMPLOYMENT IN ADMIN-**
19 **ISTRATION FOR PURPOSES OF CERTAIN HIR-**
20 **ING DECISIONS.**

21 “(a) IN GENERAL.—In any case in which the Sec-
22 retary accepts an application for a position of employment
23 with the Administration and limits consideration of appli-
24 cations for such position to applications submitted by indi-
25 viduals serving in a career or career-conditional position

1 in the competitive service within the Administration, the
2 Secretary shall deem an officer who has served as an offi-
3 cer in the commissioned officer corps for at least 3 years
4 to be serving in a career or career-conditional position in
5 the competitive service within the Administration for pur-
6 poses of such limitation.

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

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

16 (b) CLERICAL AMENDMENT.—The table of contents
17 in section 1 of the Hydrographic Services Improvement
18 Act Amendments of 2002 (Public Law 107–372), as
19 amended by this Act, is further amended by inserting after
20 the item relating to section 269 the following:

“Sec. 270. Treatment of commission in commissioned officer corps as employ-
ment in Administration for purposes of certain hiring deci-
sions.”.

1 **TITLE III—APPOINTMENTS AND**
2 **PROMOTION OF OFFICERS**

3 **SEC. 301. APPOINTMENTS.**

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

6 **“SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINT-**
7 **MENTS.**

8 “(a) ORIGINAL APPOINTMENTS.—

9 “(1) GRADES.—

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

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

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

18 “(B) APPOINTMENT OF OFFICER CAN-
19 DIDATES.—

20 “(i) LIMITATION ON GRADE.—An
21 original appointment of an officer can-
22 didate, upon graduation from the basic of-
23 ficer training program of the commissioned
24 officer corps of the Administration, may

1 not be made in any other grade than en-
2 sign.

3 “(ii) RANK.—Officer candidates re-
4 ceiving appointments as ensigns upon
5 graduation from basic officer training pro-
6 gram shall take rank according to their
7 proficiency as shown by the order of their
8 merit at date of graduation.

9 “(2) SOURCE OF APPOINTMENTS.—An original
10 appointment may be made from among the fol-
11 lowing:

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

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

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

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

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

4 “(iii) obtained an unlimited tonnage
5 or unlimited horsepower Merchant Mariner
6 Credential from the United States Coast
7 Guard.

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

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

16 “(A) MARITIME ACADEMIES OF THE
17 STATES.—The term ‘maritime academies of the
18 States’ means the following:

19 “(i) California Maritime Academy,
20 Vallejo, California.

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

23 “(iii) Maine Maritime Academy,
24 Castine, Maine.

1 “(iv) Massachusetts Maritime Acad-
2 emy, Buzzards Bay, Massachusetts.

3 “(v) State University of New York
4 Maritime College, Fort Schuyler, New
5 York.

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

8 “(B) MILITARY SERVICE ACADEMIES OF
9 THE UNITED STATES.—The term ‘military serv-
10 ice academies of the United States’ means the
11 following:

12 “(i) The United States Military Acad-
13 emy.

14 “(ii) The United States Naval Acad-
15 emy.

16 “(iii) The United States Air Force
17 Academy.

18 “(iv) The United States Coast Guard
19 Academy.

20 “(v) The United States Merchant Ma-
21 rine Academy.

22 “(b) REAPPOINTMENT.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), an individual who previously served in the
25 commissioned officer corps of the Administration

1 may be appointed by the Secretary to the grade the
2 individual held prior to separation.

3 “(2) REAPPOINTMENTS TO HIGHER GRADES.—

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

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

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

20 “(e) INTER-SERVICE TRANSFERS.—For inter-service
21 transfers (as described in the Department of Defense Di-
22 rective 1300.4 (dated December 27, 2006)) the Secretary
23 shall—

24 “(1) coordinate with the Secretary of Defense
25 and the Secretary of the Department in which the

1 Coast Guard is operating to promote and streamline
2 inter-service transfers;

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

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

9 (b) CLERICAL AMENDMENT.—The table of contents
10 in section 1 of the Hydrographic Services Improvement
11 Act Amendments of 2002 (Public Law 107–372), as
12 amended by this Act, is further amended by inserting after
13 the item relating to section 220 the following

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

14 **SEC. 302. PERSONNEL BOARDS.**

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

17 **“SEC. 222. PERSONNEL BOARDS.**

18 “(a) CONVENING.—Not less frequently than once
19 each year and at such other times as the Secretary deter-
20 mines necessary, the Secretary shall convene a personnel
21 board.

22 “(b) MEMBERSHIP.—

23 “(1) IN GENERAL.—A board convened under
24 subsection (a) shall consist of 5 or more officers who

1 are serving in or above the permanent grade of the
2 officers under consideration by the board.

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

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

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

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

15 “(2) make selections and recommendations to
16 the Secretary and the President for the appoint-
17 ment, promotion, involuntary separation, continu-
18 ation, and involuntary retirement of officers in the
19 commissioned officer corps of the Administration as
20 prescribed in this title.

21 “(d) ACTION ON RECOMMENDATIONS NOT ACCEPT-
22 ABLE.—If any recommendation by a board convened
23 under subsection (a) is not accepted by the Secretary or
24 the President, the board shall make such further rec-

1 ommendations as the Secretary or the President considers
2 appropriate.”.

3 **SEC. 303. ASSISTANT ADMINISTRATOR OF THE OFFICE OF**
4 **MARINE AND AVIATION OPERATIONS.**

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

6 (1) in subsection (c)—

7 (A) the fourth sentence, by striking “Di-
8 rector” and inserting “Assistant Adminis-
9 trator”; and

10 (B) in the heading, by inserting “ASSIST-
11 ANT ADMINISTRATOR OF THE” before “OF-
12 FICE”;

13 (2) in paragraph (2) of subsection (d), by in-
14 serting “or immediately beginning a period of ter-
15 minal leave” before “, revert to” ;

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

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

23 (4) in subsection (f), by inserting “or in a pe-
24 riod of terminal leave” before “, shall have the pay”.

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 Hydrographic Services Improvement
26 Act Amendments of 2002 (Public Law 107–372), as

1 amended by this Act, is further amended by striking the
2 item relating to section 229 and inserting the following:

“Sec. 229. Temporary appointments.”.

3 **SEC. 305. OFFICER CANDIDATES.**

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

6 **“SEC. 234. OFFICER CANDIDATES.**

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

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

17 “(c) DISMISSAL.—The Secretary may dismiss from
18 the basic officer training program of the Administration
19 any officer candidate who, during the officer candidate’s
20 term as an officer candidate, the Secretary considers un-
21 satisfactory in either academics or conduct, or not adapted
22 for a career in the commissioned officer corps of the Ad-
23 ministration. Officer candidates shall be subject to rules
24 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 the such
16 program, 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 such sub-
3 section (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 section (d) shall be sub-
9 ject to the repayment provisions of section 216(b).”.

10 (b) CLERICAL AMENDMENT.—The table of contents
11 in section 1 of the Hydrographic Services Improvement
12 Act Amendments of 2002 (Public Law 107–372), as
13 amended by this Act, is further amended by inserting after
14 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 by inserting after para-
17 graph (6) the following:

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

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

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

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

14 **SEC. 306. PROCUREMENT OF PERSONNEL.**

15 (a) IN GENERAL.—Subtitle B (33 U.S.C. 3021 et
16 seq.), as amended by section 305(a) of this Act, is further
17 amended by adding at the end the following:

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

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

23 (b) CLERICAL AMENDMENT.—The table of contents
24 in section 1 of the Hydrographic Services Improvement
25 Act Amendments of 2002 (Public Law 107-372), as

1 amended by this Act, is further amended by inserting after
2 the item relating to section 234 the following:

“235. Procurement of personnel.”.

3 **SEC. 307. AUTHORITY FOR OFFICERS TO OPT OUT OF PRO-**
4 **MOTION BOARD CONSIDERATION.**

5 (a) IN GENERAL.—The Director of the National Ocea-
6 nic and Atmospheric Administration Commissioned Offi-
7 cer Corps may provide that an officer may, upon the offi-
8 cer’s request and with the approval of the Director, be
9 excluded from consideration by a selection board convened
10 under section 222 of the Hydrographic Services Improve-
11 ment Act Amendments of 2002 (33 U.S.C. 3022).

12 (b) APPROVAL.—The Director shall approve a re-
13 quest made by an officer under subsection (a) only if—

14 (1) the basis for the request is to allow the offi-
15 cer to complete a broadening assignment, advanced
16 education, another assignment of significant value to
17 the Administration, a career progression require-
18 ment delayed by the assignment or education, or a
19 qualifying personal or professional circumstance, as
20 determined by the Director;

21 (2) the Director determines the exclusion from
22 consideration is in the best interest of the Adminis-
23 tration; and

1 (3) the officer has not previously failed selection
2 for promotion to the grade for which the officer re-
3 quests the exclusion from consideration.

4 **SEC. 308. CAREER INTERMISSION PROGRAM.**

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

7 **“§ 236. Career flexibility to enhance retention of**
8 **members**

9 “(a) PROGRAMS AUTHORIZED.—The Secretary may
10 carry out a program under which officers may be inac-
11 tivated from active service in order to meet personal or
12 professional needs and returned to active service at the
13 end of such period of inactivation from active service.

14 “(b) PERIOD OF INACTIVATION FROM ACTIVE SERV-
15 ICE; EFFECT OF INACTIVATION.—

16 “(1) IN GENERAL.—The period of inactivation
17 from active service under a program under this sec-
18 tion of a member participating in the program shall
19 be such period as the Secretary shall specify in the
20 agreement of the member under subsection (c), ex-
21 cept that such period may not exceed three years.

22 “(2) EXCLUSION FROM RETIREMENT.—Any pe-
23 riod of participation of a member in a program
24 under this section shall not count toward eligibility

1 for retirement or computation of retired pay under
2 subtitle C (33 U.S.C. 3041 et seq.).

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

7 “(1) To undergo during the period of the inac-
8 tivation of the member from active service under the
9 program such inactive service training as the Direc-
10 tor shall require in order to ensure that the member
11 retains proficiency, at a level determined by the Di-
12 rector to be sufficient, in the technical skills, profes-
13 sional qualifications, and physical readiness of the
14 member during the inactivation of the member from
15 active service.

16 “(2) Following completion of the period of the
17 inactivation of the officer from active service under
18 the program, to serve two months on active service
19 for each month of the period of the inactivation of
20 the member from active service under the program.

21 “(d) CONDITIONS OF RELEASE.—The Secretary shall
22 prescribe regulations specifying the guidelines regarding
23 the conditions of release that must be considered and ad-
24 dressed in the agreement required by subsection (c). At
25 a minimum, the Secretary shall prescribe the procedures

1 and standards to be used to instruct a member on the
2 obligations to be assumed by the member under paragraph
3 (2) of such subsection while the member is released from
4 active service.

5 “(e) ORDER TO ACTIVE SERVICE.—Under regula-
6 tions prescribed by the Secretary, an officer participating
7 in a program under this section may, in the discretion of
8 the Secretary, be required to terminate participation in
9 the program and be ordered to active service.

10 “(f) PAY AND ALLOWANCES.—

11 “(1) BASIC PAY.—During each month of par-
12 ticipation in a program under this section, an officer
13 who participates in the program shall be paid basic
14 pay in an amount equal to two-thirtieths of the
15 amount of monthly basic pay to which the member
16 would otherwise be entitled under section 204 of title
17 37 as a member of the uniformed services on active
18 service in the grade and years of service of the mem-
19 ber when the member commences participation in
20 the program.

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

22 “(A) PROHIBITION.—An officer who par-
23 ticipates in such a program shall not, while par-
24 ticipating in the program, be paid any special
25 or incentive pay or bonus to which the member

1 is otherwise entitled under an agreement under
2 chapter 5 of title 37 that is in force when the
3 member commences participation in the pro-
4 gram.

5 “(B) NOT TREATED AS FAILURE TO PER-
6 FORM SERVICES.—The inactivation from active
7 service of a member participating in a program
8 shall not be treated as a failure of the member
9 to perform any period of service required of the
10 member in connection with an agreement for a
11 special or incentive pay or bonus under chapter
12 5 of title 37 that is in force when the member
13 commences participation in the program.

14 “(3) RETURN TO ACTIVE SERVICE.—

15 “(A) SPECIAL OR INCENTIVE PAY OR
16 BONUS.—Subject to subparagraph (B), upon
17 the return of a member to active service after
18 completion by the member of participation in a
19 program—

20 “(i) any agreement entered into by
21 the member under chapter 5 of title 37 for
22 the payment of a special or incentive pay
23 or bonus that was in force when the mem-
24 ber commenced participation in the pro-
25 gram shall be revived, with the term of

1 such agreement after revival being the pe-
2 riod of the agreement remaining to run
3 when the member commenced participation
4 in the program; and

5 “(ii) any special or incentive pay or
6 bonus shall be payable to the member in
7 accordance with the terms of the agree-
8 ment concerned for the term specified in
9 clause (i).

10 “(B) LIMITATION.—

11 “(i) IN GENERAL.—Subparagraph (A)
12 shall not apply to any special or incentive
13 pay or bonus otherwise covered by that
14 subparagraph with respect to a member if,
15 at the time of the return of the member to
16 active service as described in that subpara-
17 graph—

18 “(I) such pay or bonus is no
19 longer authorized by law; or

20 “(II) the member does not satisfy
21 eligibility criteria for such pay or
22 bonus as in effect at the time of the
23 return of the member to active serv-
24 ice.

1 “(ii) PAY OR BONUS CEASES BEING
2 AUTHORIZED.—Subparagraph (A) shall
3 cease to apply to any special or incentive
4 pay or bonus otherwise covered by that
5 subparagraph with respect to a member if,
6 during the term of the revived agreement
7 of the member under subparagraph (A)(i),
8 such pay or bonus ceases being authorized
9 by law.

10 “(C) REPAYMENT.—A member who is in-
11 eligible for payment of a special or incentive
12 pay or bonus otherwise covered by this para-
13 graph by reason of subparagraph (B)(i)(II)
14 shall be subject to the requirements for repay-
15 ment of such pay or bonus in accordance with
16 the terms of the applicable agreement of the
17 member under chapter 5 of title 37.

18 “(D) REQUIRED SERVICE IS ADDI-
19 TIONAL.—Any service required of a member
20 under an agreement covered by this paragraph
21 after the member returns to active service as
22 described in subparagraph (A) shall be in addi-
23 tion to any service required of the member
24 under an agreement under subsection (c).

1 “(4) TRAVEL AND TRANSPORTATION ALLOW-
2 ANCE.—

3 “(A) IN GENERAL.—Subject to subpara-
4 graph (B), a member who participates in a pro-
5 gram is entitled, while participating in the pro-
6 gram, to the travel and transportation allow-
7 ances authorized by section 474 of title 37
8 for—

9 “(i) travel performed from the resi-
10 dence of the member, at the time of release
11 from active service to participate in the
12 program, to the location in the United
13 States designated by the member as the
14 member’s residence during the period of
15 participation in the program; and

16 “(ii) travel performed to the residence
17 of the member upon return to active serv-
18 ice at the end of the participation of the
19 member in the program.

20 “(B) SINGLE RESIDENCE.—An allowance
21 is payable under this paragraph only with re-
22 spect to travel of a member to and from a sin-
23 gle residence.

24 “(5) LEAVE BALANCE.—A member who partici-
25 pates in a program is entitled to carry forward the

1 leave balance existing as of the day on which the
2 member begins participation and accumulated in ac-
3 cordance with section 701 of title 10, but not to ex-
4 ceed 60 days.

5 “(g) PROMOTION.—

6 “(1) IN GENERAL.—An officer participating in
7 a program under this section shall not, while partici-
8 pating in the program, be eligible for consideration
9 for promotion under subtitle B (33 U.S.C. 3021 et
10 seq.).

11 “(2) RETURN TO SERVICE.—Upon the return of
12 an officer to active service after completion by the
13 officer of participation in a program—

14 “(A) the Secretary may adjust the date of
15 rank of the officer in such manner as the Sec-
16 retary shall prescribe in regulations for pur-
17 poses of this section; and

18 “(B) the officer shall be eligible for consid-
19 eration for promotion when officers of the same
20 competitive category, grade, and seniority are
21 eligible for consideration for promotion.

22 “(h) CONTINUED ENTITLEMENTS.—A member par-
23 ticipating in a program under this section shall, while par-
24 ticipating in the program, be treated as a member of the

1 uniformed services on active duty for a period of more
2 than 30 days for purposes of—

3 “(1) the entitlement of the member and of the
4 dependents of the member to medical and dental
5 care under the provisions of chapter 55 of title 10;
6 and

7 “(2) retirement or separation for physical dis-
8 ability under the provisions of subtitle C (33 U.S.C.
9 3041 et seq.).”.

10 (b) CLERICAL AMENDMENT.—The analysis for such
11 chapter is amended by inserting after the item relating
12 to section 235 the following:

“236. Career flexibility to enhance retention of members.”.

13 **TITLE IV—SEPARATION AND**
14 **RETIREMENT OF OFFICERS**

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

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

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

20 “(1) IN GENERAL.—If the Secretary determines
21 that the evaluation of the medical condition of an of-
22 ficer requires hospitalization or medical observation
23 that cannot be completed with confidence in a man-
24 ner consistent with the officer’s well being before the
25 date on which the officer would otherwise be re-

1 quired to retire or be separated under this section,
2 the Secretary may defer the retirement or separation
3 of the officer.

4 “(2) CONSENT REQUIRED.—A deferment may
5 only be made with the written consent of the officer
6 involved. If the officer does not provide written con-
7 sent to the deferment, the officer shall be retired or
8 separated as scheduled.

9 “(3) LIMITATION.—A deferral of retirement or
10 separation under this subsection may not extend for
11 more than 30 days after completion of the evalua-
12 tion requiring hospitalization or medical observa-
13 tion.”.

14 **SEC. 402. SEPARATION PAY.**

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

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

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

23 “(2) requests removal from the list of select-
24 ees.”.

