

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
HYDROGRAPHIC SERVICES IMPROVEMENT

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JULY 26, 2002.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. HANSEN, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany H.R. 4883]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4883) to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

**TITLE I—NOAA HYDROGRAPHIC SERVICES IMPROVEMENT**

- Sec. 101. Short title; references.
- Sec. 102. Definitions.
- Sec. 103. Functions of Administrator.
- Sec. 104. Quality assurance program.
- Sec. 105. Hydrographic Services Review Panel.
- Sec. 106. Plan regarding photogrammetry and remote sensing.
- Sec. 107. Authorization of appropriations.

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

Sec. 201. Short title.

**SUBTITLE A—GENERAL PROVISIONS**

- Sec. 211. Commissioned officer corps.
- Sec. 212. Definitions.
- Sec. 213. Authorized number on the active list.
- Sec. 214. Strength and distribution in grade.
- Sec. 215. Authorized number for fiscal years 2003 through 2008.

**SUBTITLE B—APPOINTMENT AND PROMOTION OF OFFICERS**

- Sec. 221. Original appointments.
- Sec. 222. Personnel boards.

Sec. 223. Promotion of ensigns to grade of lieutenant (junior grade).  
 Sec. 224. Promotion by selection to permanent grades above lieutenant (junior grade).  
 Sec. 225. Length of service for promotion purposes.  
 Sec. 226. Appointments and promotions to permanent grades.  
 Sec. 227. General qualification of officers for promotion to higher permanent grade.  
 Sec. 228. Positions of importance and responsibility.  
 Sec. 229. Temporary appointments and promotions generally.  
 Sec. 230. Temporary appointment or advancement of commissioned officers in time of war or national emergency.  
 Sec. 231. Pay and allowances; date of acceptance of promotion.  
 Sec. 232. Service credit as deck officer or junior engineer for promotion purposes.  
 Sec. 233. Suspension during war or emergency.

#### SUBTITLE C—SEPARATION AND RETIREMENT OF OFFICERS

Sec. 241. Involuntary retirement or separation.  
 Sec. 242. Separation pay.  
 Sec. 243. Mandatory retirement for age.  
 Sec. 244. Retirement for length of service.  
 Sec. 245. Computation of retired pay.  
 Sec. 246. Retired grade and retired pay.  
 Sec. 247. Retired rank and pay held pursuant to other laws unaffected.  
 Sec. 248. Continuation on active duty; deferral of retirement.  
 Sec. 249. Recall to active duty.

#### SUBTITLE D—SERVICE OF OFFICERS WITH THE MILITARY DEPARTMENTS

Sec. 251. Cooperation with and transfer to military departments.  
 Sec. 252. Relative rank of officers when serving with Army, Navy, or Air Force.  
 Sec. 253. Rules and regulations when cooperating with military departments.

#### SUBTITLE E—RIGHTS AND BENEFITS

Sec. 261. Applicability of certain provisions of title 10, United States Code.  
 Sec. 262. Eligibility for veterans benefits and other rights, privileges, immunities, and benefits under certain provisions of law.  
 Sec. 263. Medical and dental care.  
 Sec. 264. Commissary privileges.  
 Sec. 265. Authority to use appropriated funds for transportation and reimbursement of certain items.  
 Sec. 266. Presentation of United States flag upon retirement.

#### SUBTITLE F—REPEALS AND CONFORMING AMENDMENTS

Sec. 271. Repeals.  
 Sec. 272. Conforming amendments.

## TITLE I—NOAA HYDROGRAPHIC SERVICES IMPROVEMENT

### SEC. 101. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the “Hydrographic Services Improvement Act Amendments of 2002”.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892 et seq.).

### SEC. 102. DEFINITIONS.

Section 302 (33 U.S.C. 892) is amended—

- (1) in paragraph (3) by inserting “, geospatial, or geomagnetic” after “geodetic”; and
- (2) in paragraph (4) by inserting “geospatial, geomagnetic,” after “geodetic.”

### SEC. 103. FUNCTIONS OF ADMINISTRATOR.

(a) HYDROGRAPHIC MONITORING SYSTEMS.—Section 303(b)(4) (33 U.S.C. 892a(b)(4)) is amended to read as follows:

“(4) shall, subject to the availability of appropriations, design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency.”

(b) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Section 303 (33 U.S.C. 892a) is further amended by adding at the end the following:

“(c) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Secretary may use hydrographic data and services to support the conservation and management of coastal and ocean resources.”

### SEC. 104. QUALITY ASSURANCE PROGRAM.

(a) IN GENERAL.—Section 304(b)(1) (33 U.S.C. 892b(b)(1)) is amended to read as follows:

“(1) IN GENERAL.—The Administrator—

“(A) by not later than 2 years after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, shall, subject to the availability of appropriations, develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3) of this Act;

“(B) may authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and

“(C) may charge a fee for such certification and use.”.

(b) ACCEPTANCE AND RECOGNITION OF CERTIFICATIONS.—Section 304(b) (33 U.S.C. 892b(b)) is amended by adding at the end the following:

“(3) ACCEPTANCE AND RECOGNITION OF CERTIFICATIONS.—The Administrator shall, to the maximum extent practicable, assure that any international organizations and agreements to which the United States is a party which affect hydrographic products and nautical charts accept or recognize, respectively, hydrographic products certified by the Administrator under this subsection.”.

(c) IMPLEMENTATION OF EXECUTIVE ORDER AND OMB CIRCULAR.—Section 304 (33 U.S.C. 892b) is amended by adding at the end the following:

“(f) ANNUAL STUDY AND REPORT REGARDING IMPLEMENTATION OF EXECUTIVE ORDER AND OMB CIRCULAR.—

“(1) IN GENERAL.—The Administrator shall annually conduct a study of, and report to the panel established under section 305 regarding, steps taken to comply with section 3(d) of Executive Order 12906 and Office of Management and Budget Circular A-16 with respect to the collection and production of new hydrographic data and products by the Administration.

“(2) CONSULTATION.—In carrying out the study and report, the Administrator shall consult with the Federal Geographic Data Committee.”.

#### SEC. 105. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 305 (33 U.S.C. 892c) is amended to read as follows:

##### “SEC. 305. HYDROGRAPHIC SERVICES REVIEW PANEL.

“(a) ESTABLISHMENT.—No later than 1 year after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, the Secretary shall establish the Hydrographic Services Review Panel.

“(b) DUTIES.—

“(1) IN GENERAL.—The panel shall advise the Administrator on matters related to the responsibilities and authorities set forth in section 303 of this Act and such other appropriate matters as the Administrator refers to the panel for review and advice.

“(2) ADMINISTRATIVE RESOURCES.—The Administrator shall make available to the panel such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—

“(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Director of the Joint Hydrographic Institute and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic surveying, tide, current geodetic and geospatial measurement, marine transportation, port administration, vessel pilotage, and coastal and fishery management.

“(B) An individual may not be appointed as a voting member of the panel if the individual is a full-time officer or employee of the United States.

“(C) Any voting member of the panel who is an applicant for, or beneficiary (as determined by the Secretary) of, any assistance under this Act shall disclose to the panel that relationship, and may not vote on any matter pertaining to that assistance.

“(2) TERMS.—

“(A) The term of office of a voting member of the panel shall be 4 years, except that of the original appointees, five shall be appointed for a term of 2 years, five shall be appointed for a term of 3 years, and five shall be appointed for a term of 4 years, as specified by the Administrator at the time of appointment.

“(B) Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve after the

date of the expiration of the term of office for which appointed until his or her successor has taken office.

“(3) NOMINATIONS.—At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel.

“(4) CHAIRMAN AND VICE CHAIRMAN.—

“(A) The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman.

“(B) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

“(d) COMPENSATION.—Voting members of the panel shall—

“(1) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and

“(2) be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

“(e) MEETINGS.—The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Secretary.

“(f) POWERS.—The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b).”.

#### SEC. 106. PLAN REGARDING PHOTOGRAMMETRY AND REMOTE SENSING.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the National Oceanic and Atmospheric Administration shall submit to the Congress a plan for increasing, consistent with this title, contracting with the private sector for photogrammetric, remote sensing, and other geospatial reference services related to hydrographic data acquisition or hydrographic services activities performed by the National Ocean Service. In preparing the plan, the Administrator shall consult with private sector entities knowledgeable in photogrammetry and remote sensing.

(b) CONTENTS.—The plan shall include the following:

(1) An assessment of which of the photogrammetric, remote sensing, and other geospatial reference services related to hydrographic data acquisition or hydrographic services activities performed by the National Ocean Service can be performed adequately by private-sector entities.

(2) An evaluation of the relative cost-effectiveness of the Federal Government and private-sector entities in performing those activities.

(3) A strategy for enhancing and improving the acquisition and contract management capabilities of the National Oceanic and Atmospheric Administration to assist in the utilization of private sector entities for photogrammetric, remote sensing and other geospatial reference services related to hydrographic data acquisition or hydrographic services activities performed by the National Ocean Service, including—

(A) the transfer and retraining of personnel to become contracting officer technical representatives;

(B) education in the use of contracting procedures in accordance with section 303(b)(3) of the Hydrographic Services Improvement Act of 1998, as amended by this Act; and

(C) the utilization of training, education, and acquisition and contract management capabilities of other Federal agencies that are expert and experienced in contracting for such services.

#### SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

Section 306 (33 U.S.C. 892d) is amended to read as follows:

##### “SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Administrator the following:

“(1) To carry out nautical mapping and charting functions under sections 303 and 304 of this Act, except for conducting hydrographic surveys—

“(A) \$50,000,000 for fiscal year 2003;

“(B) \$55,000,000 for fiscal year 2004;

“(C) \$60,000,000 for fiscal year 2005;

“(D) \$65,000,000 for fiscal year 2006; and

“(E) \$70,000,000 for fiscal year 2007.

“(2) To contract for hydrographic surveys under section 303(b)(1), including the leasing or time chartering of vessels—

“(A) \$40,000,000 for fiscal year 2003;

“(B) \$42,500,000 for fiscal year 2004;

“(C) \$45,000,000 for fiscal year 2005;

“(D) \$47,500,000 for fiscal year 2006; and

- “(E) \$50,000,000 for fiscal year 2007.
- “(3) To carry out geodetic functions under this title—
  - “(A) \$27,500,000 for fiscal year 2003;
  - “(B) \$30,000,000 for fiscal year 2004;
  - “(C) \$32,500,000 for fiscal year 2005;
  - “(D) \$35,000,000 for fiscal year 2006; and
  - “(E) \$35,500,000 for fiscal year 2007.
- “(4) To carry out tide and current measurement functions under this title—
  - “(A) \$25,000,000 for fiscal year 2003;
  - “(B) \$27,500,000 for fiscal year 2004;
  - “(C) \$30,000,000 for fiscal year 2005;
  - “(D) \$32,500,000 for fiscal year 2006; and
  - “(E) \$35,000,000 for fiscal year 2007.
- “(5) To carry out activities authorized under this title that enhance homeland security, including electronic navigation charts, hydrographic surveys, real time tide and current measurements, and geodetic functions, in addition to other amounts authorized by this section, \$50,000,000.”.

## **TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS**

### **SEC. 201. SHORT TITLE.**

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

## **Subtitle A—General Provisions**

### **SEC. 211. COMMISSIONED OFFICER CORPS.**

There shall be in the National Oceanic and Atmospheric Administration a commissioned officer corps.

### **SEC. 212. DEFINITIONS.**

(a) **APPLICABILITY OF DEFINITIONS IN TITLE 10, UNITED STATES CODE.**—Except as provided in subsection (b), the definitions provided in section 101 of title 10, United States Code, apply to the provisions of this title.

(b) **ADDITIONAL DEFINITIONS.**—In this title:

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

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

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

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

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce.

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

### **SEC. 213. AUTHORIZED NUMBER ON THE ACTIVE LIST.**

(a) **ANNUAL STRENGTH ON ACTIVE LIST.**—The annual strength of the commissioned corps in officers on the lineal list of active duty officers of the corps shall be prescribed by law.

(b) **LINEAL LIST.**—The Secretary shall maintain a list, known as the “lineal list”, of officers on active duty. Officers shall be carried on the lineal list by grade and, within grade, by seniority in grade.

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

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

- (1) 8 in the grade of captain.
- (2) 14 in the grade of commander.
- (3) 19 in the grade of lieutenant commander.
- (4) 23 in the grade of lieutenant.
- (5) 18 in the grade of lieutenant (junior grade).

(6) 18 in the grade of ensign.

(b) COMPUTATION OF NUMBER IN GRADE.—

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

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

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

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

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

**SEC. 215. AUTHORIZED NUMBER FOR FISCAL YEARS 2003 THROUGH 2008.**

There are authorized to be not less than 264 and not more than 299 officers on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration for each of fiscal years 2003 through 2008.

## **Subtitle B—Appointment and Promotion of Officers**

**SEC. 221. ORIGINAL APPOINTMENTS.**

(a) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

**SEC. 222. PERSONNEL BOARDS.**

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

(b) DUTIES.—Each personnel board shall—

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

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

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

**SEC. 223. PROMOTION OF ENSIGNS TO GRADE OF LIEUTENANT (JUNIOR GRADE).**

(a) IN GENERAL.—An officer in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) upon completion of three years of service. The authorized number of officers in the grade of lieutenant (junior grade) shall be temporarily increased as necessary to authorize such appointment.

(b) SEPARATION OF ENSIGNS FOUND NOT FULLY QUALIFIED.—If an officer in the permanent grade of ensign is at any time found not fully qualified, the officer's commission shall be revoked and the officer shall be separated from the commissioned service.

**SEC. 224. PROMOTION BY SELECTION TO PERMANENT GRADES ABOVE LIEUTENANT (JUNIOR GRADE).**

Promotion to fill vacancies in each permanent grade above the grade of lieutenant (junior grade) shall be made by selection from the next lower grade upon recommendation of the personnel board.

**SEC. 225. LENGTH OF SERVICE FOR PROMOTION PURPOSES.**

(a) GENERAL RULE.—Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any other officer below that officer on the lineal list.

(b) EXCEPTION.—Notwithstanding subsection (a), an officer who has lost numbers shall be assumed to have, for promotion purposes, no greater service than the officer next above such officer in such officer's new position on the lineal list.

**SEC. 226. APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.**

Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

**SEC. 227. GENERAL QUALIFICATION OF OFFICERS FOR PROMOTION TO HIGHER PERMANENT GRADE.**

No officer may be promoted to a higher permanent grade on the active list until the officer has passed a satisfactory mental and physical examination in accordance with regulations prescribed by the Secretary.

**SEC. 228. POSITIONS OF IMPORTANCE AND RESPONSIBILITY.**

(a) DESIGNATION OF POSITIONS.—The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half), as designated by the Secretary for each position.

(b) ASSIGNMENT OF OFFICERS TO DESIGNATED POSITIONS.—The Secretary may assign officers to positions designated under subsection (a).

(c) FLEET OVERSIGHT AND ADMINISTRATION OF OFFICER CORPS.—The Secretary shall designate one position under this section which shall be responsible for oversight of the operation of the vessel fleet and for the administration of the commissioned officer corps. That position shall be filled by an officer on the lineal list serving in or above the grade of rear admiral (lower half). For the specific purpose of administering the commissioned officer corps, that position shall carry the title of Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

(d) GRADE.—

(1) TEMPORARY APPOINTMENT TO GRADE DESIGNATED FOR POSITION.—An officer assigned to a position under this section while so serving has the grade designated for that position, if appointed to that grade by the President, by and with the advice and consent of the Senate.

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

(e) NUMBER OF OFFICERS APPOINTED.—

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

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

(A) one in the grade of vice admiral;

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

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

(f) **PAY AND ALLOWANCES.**—An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

(g) **EFFECT OF APPOINTMENT.**—An appointment of an officer under this section—

(1) does not vacate the permanent grade held by the officer; and

(2) creates a vacancy on the active list.

**SEC. 229. TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY.**

(a) **ENSIGN.**—Temporary appointments in the grade of ensign may be made by the President alone. Each such temporary appointment terminates at the close of the next regular session of the Congress unless the Senate sooner gives its advice and consent to the appointment.

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

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

**SEC. 230. TEMPORARY APPOINTMENT OR ADVANCEMENT OF COMMISSIONED OFFICERS IN TIME OF WAR OR NATIONAL EMERGENCY.**

(a) **IN GENERAL.**—Officers of the Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency.

(b) **LIMITATIONS.**—Subsection (a) shall be applied subject to the following limitations:

(1) A commissioned officer in the service of a military department under section 251 may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to a higher rank or grade.

(2) A commissioned officer in the service of the Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under section 251.

(3) Temporary appointments may be made in all grades to which original appointments in the Administration are authorized, except that the number of officers holding temporary appointments may not exceed the number of officers transferred to a military department under section 251.

**SEC. 231. PAY AND ALLOWANCES; DATE OF ACCEPTANCE OF PROMOTION.**

(a) **ACCEPTANCE AND DATE OF PROMOTION.**—An officer of the commissioned corps who is promoted to a higher grade—

(1) is deemed for all purposes to have accepted the promotion upon the date the promotion is made by the President, unless the officer expressly declines the promotion; and

(2) shall receive the pay and allowances of the higher grade from that date unless the officer is entitled under another provision of law to receive the pay and allowances of the higher grade from an earlier date.

(b) **OATH OF OFFICE.**—An officer who subscribed to the oath of office required by section 3331 of title 5, United States Code, shall not be required to renew such oath or to take a new oath upon promotion to a higher grade, if the service of the officer after the taking of such oath is continuous.

**SEC. 232. SERVICE CREDIT AS DECK OFFICER OR JUNIOR ENGINEER FOR PROMOTION PURPOSES.**

For purposes of promotion, there shall be counted in addition to active commissioned service, service as deck officer or junior engineer.

**SEC. 233. SUSPENSION DURING WAR OR EMERGENCY.**

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in the President's discretion, to suspend the op-



eration of all or any part of the provisions of law pertaining to promotion of commissioned officers of the Administration.

## Subtitle C—Separation and Retirement of Officers

### SEC. 241. INVOLUNTARY RETIREMENT OR SEPARATION.

(a) TRANSFER OF OFFICERS TO RETIRED LIST; SEPARATION FROM SERVICE.—As recommended by a personnel board convened under section 222—

(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

(b) COMPUTATIONS.—In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest 4 percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

(c) EFFECTIVE DATE OF RETIREMENTS AND SEPARATIONS.—A retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary approves the retirement or separation, except that if the officer concerned requests an earlier retirement or separation date, the date shall be as determined by the Secretary.

### SEC. 242. SEPARATION PAY.

(a) AUTHORIZATION OF PAYMENT.—An officer who is separated under section 241(a)(2) and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

(b) AMOUNT OF SEPARATION PAY.—

(1) SIX OR MORE YEARS.—In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

(2) THREE TO SIX YEARS.—In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

(c) OTHER CONDITIONS, REQUIREMENTS, AND ADMINISTRATIVE PROVISIONS.—The provisions of subsections (f), (g), and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section.

### SEC. 243. MANDATORY RETIREMENT FOR AGE.

(a) OFFICERS BELOW GRADE OF REAR ADMIRAL (LOWER HALF).—Unless retired or separated earlier, each officer on the lineal list of the commissioned corps who is serving in a grade below the grade of rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

(b) FLAG OFFICERS.—Notwithstanding subsection (a), the President may defer the retirement of an officer serving in a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

### SEC. 244. RETIREMENT FOR LENGTH OF SERVICE.

An officer who has completed 20 years of service, of which at least 10 years was service as a commissioned officer, may at any time thereafter, upon application by such officer and in the discretion of the President, be placed on the retired list.

### SEC. 245. COMPUTATION OF RETIRED PAY.

(a) OFFICERS FIRST BECOMING MEMBERS BEFORE SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by

(2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

The retired pay so computed may not exceed 75 percent of the retired pay base.

(b) OFFICERS FIRST BECOMING MEMBERS ON OR AFTER SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10, United States Code; by

(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

(c) TREATMENT OF FULL AND FRACTIONAL PARTS OF MONTHS IN COMPUTING YEARS OF SERVICE.—

(1) IN GENERAL.—In computing the number of years of service of an officer for the purposes of subsection (a)—

(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as 1/12 of a year; and

(B) any remaining fractional part of a month shall be disregarded.

(2) ROUNDING.—Retired pay computed under this section, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

#### **SEC. 246. RETIRED GRADE AND RETIRED PAY.**

Each officer retired pursuant to law shall be placed on the retired list with the highest grade satisfactorily held by that officer while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and shall receive retired pay based on such highest grade, if—

(1) the officer's performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served; and

(2) unless retired for disability, the officer's length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

#### **SEC. 247. RETIRED RANK AND PAY HELD PURSUANT TO OTHER LAWS UNAFFECTED.**

Nothing in this subtitle shall prevent an officer from being placed on the retired list with the highest rank and with the highest retired pay to which the officer is entitled under any other provision of law.

#### **SEC. 248. CONTINUATION ON ACTIVE DUTY; DEFERRAL OF RETIREMENT.**

The provisions of subchapter IV of chapter 36 of title 10, United States Code, relating to continuation on active duty and deferral of retirement shall apply to commissioned officers of the Administration.

#### **SEC. 249. RECALL TO ACTIVE DUTY.**

The provisions of chapter 39 of title 10, United States Code, relating to recall of retired officers to active duty, including the limitations on such recalls, shall apply to commissioned officers of the Administration.

## **Subtitle D—Service of Officers With the Military Departments**

#### **SEC. 251. COOPERATION WITH AND TRANSFER TO MILITARY DEPARTMENTS.**

(a) IN GENERAL.—The President may, whenever in the judgment of the President a sufficient national emergency exists, transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and officers of the Administration as the President considers to be in the best interest of the country. After any such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which the transfer is made. Such transferred vessels, equipment, stations, and officers shall be returned to the Administration when the national emergency ceases, in the opinion of the President. Nothing in this section shall be construed as transferring the Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent provided in this section.

(b) STATUS OF TRANSFERRED OFFICERS.—An officer of the Administration transferred under this section, shall, while under the jurisdiction of a military depart-

ment, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention permanently in the military service of the United States is not contemplated by law.

**SEC. 252. RELATIVE RANK OF OFFICERS WHEN SERVING WITH ARMY, NAVY, OR AIR FORCE.**

When serving with the Army, Navy, or Air Force, an officer of the Administration shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade. Nothing in this subtitle shall be construed to affect or alter an officer's rates of pay and allowances when not assigned to military duty.

**SEC. 253. RULES AND REGULATIONS WHEN COOPERATING WITH MILITARY DEPARTMENTS.**

(a) **JOINT REGULATIONS.**—The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations—

(1) governing the duties to be performed by the Administration in time of war; and

(2) providing for the cooperation of the Administration with the military departments in time of peace in preparation for its duties in time of war.

(b) **APPROVAL.**—Regulations under subsection (a) shall not be effective unless approved by each of those Secretaries.

(c) **COMMUNICATIONS.**—Regulations under subsection (a) may provide procedures for making reports and communications between a military department and the Administration.

## Subtitle E—Rights and Benefits

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

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

(1) Chapter 40, relating to leave.

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

(3) Section 1035, relating to deposits of savings.

(4) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.

(5) Section 1052, relating to reimbursement for adoption expenses.

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

(7) Chapter 61, relating to retirement or separation for physical disability.

(8) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.

(9) Chapter 71, relating to computation of retired pay.

(10) Chapter 73, relating to annuities based on retired or retainer pay.

(11) Subchapter II of chapter 75, relating to death benefits.

(12) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.

(13) Sections 2731 and 2735, relating to property loss incident to service.

(14) Section 2771, relating to final settlement of accounts of deceased members.

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

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

**SEC. 262. ELIGIBILITY FOR VETERANS BENEFITS AND OTHER RIGHTS, PRIVILEGES, IMMUNITIES, AND BENEFITS UNDER CERTAIN PROVISIONS OF LAW.**

(a) **IN GENERAL.**—Active service of officers of the Administration shall be deemed to be active military service for the purposes of all rights, privileges, immunities, and benefits under the following:

(1) Laws administered by the Secretary of Veterans Affairs.

(2) The Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 501 et seq.).

(3) Section 210 of the Social Security Act (42 U.S.C. 410), as in effect before September 1, 1950.

(b) EXERCISE OF AUTHORITY.—In the administration of the laws and regulations referred to in subsection (a), with respect to the Administration, the authority vested in the Secretary of Defense and the Secretaries of the military departments and their respective departments shall be exercised by the Secretary of Commerce.

**SEC. 263. MEDICAL AND DENTAL CARE.**

The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.

**SEC. 264. COMMISSARY PRIVILEGES.**

(a) EXTENSION OF PRIVILEGE.—Commissioned officers, ships' officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the Armed Forces at the prices charged officers and enlisted members of the Armed Forces.

(b) SALES OF RATIONS, STORES, UNIFORMS, AND RELATED EQUIPMENT.—The Secretary may purchase ration supplies for messes, stores, uniforms, accouterments, and related equipment for sale aboard ship and shore stations of the Administration to members of the uniformed services and to personnel assigned to such ships or shore stations. Sales shall be in accordance with regulations prescribed by the Secretary, and proceeds therefrom shall, as far as is practicable, fully reimburse the appropriations charged without regard to fiscal year.

(c) SURVIVING SPOUSES' RIGHTS.—Rights extended to members of the uniformed services in this section are extended to their surviving spouses and to such others as are designated by the Secretary concerned.

**SEC. 265. AUTHORITY TO USE APPROPRIATED FUNDS FOR TRANSPORTATION AND REIMBURSEMENT OF CERTAIN ITEMS.**

(a) TRANSPORTATION OF EFFECTS OF DECEASED OFFICERS.—In the case of an officer who dies on active duty, the Secretary may provide, from appropriations made available to the Administration, transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of that officer to the official residence of record of that officer. However, upon application by the dependents of such an officer, such transportation may be provided to such other location as may be determined by the Secretary.

(b) REIMBURSEMENT FOR SUPPLIES FURNISHED BY OFFICERS TO DISTRESSED AND SHIPWRECKED PERSONS.—Under regulations prescribed by the Secretary, appropriations made available to the Administration may be used to reimburse an officer for food, clothing, medicines, and other supplies furnished by the officer—

(1) for the temporary relief of distressed persons in remote localities; or

(2) to shipwrecked persons who are temporarily provided for by the officer.

**SEC. 266. PRESENTATION OF UNITED STATES FLAG UPON RETIREMENT.**

(a) PRESENTATION OF FLAG UPON RETIREMENT.—Upon the release of a commissioned officer from active commissioned service for retirement, the Secretary shall present a United States flag to the officer.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—An officer is not eligible for presentation of a flag under subsection (a) if the officer has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

## **Subtitle F—Repeals and Conforming Amendments**

**SEC. 271. REPEALS.**

The following provisions of law are repealed:

(1) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a et seq.).

(2) Section 3 of the Act of August 10, 1956 (33 U.S.C. 857a).

(3) Public Law 91–621 (33 U.S.C. 857–1 et seq.).

(4) Section 16 of the Act of May 22, 1917 (33 U.S.C. 854, 855, 856, 857, and 858).

(5) Section 1 of the Act of July 22, 1947 (33 U.S.C. 874).

(6) Section 11 of the Act entitled “An Act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service”, enacted May 18, 1920 (33 U.S.C. 864).

(7) Section 636(a)(17) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(17)).

#### SEC. 272. CONFORMING AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Section 1406(g) of title 10, United States Code, is amended by striking “section 16 of the Coast and Geodetic Survey Commissioned Officers’ Act of 1948 (33 U.S.C. 853o)” and inserting “section 305 of the National Oceanic and Atmospheric Administration Commissioned Officers Act of 2002”.

(b) PUBLIC LAW 104–106.—Section 566(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 328; 10 U.S.C. 1293 note) is amended by striking “the Coast and Geodetic Survey Commissioned Officers’ Act of 1948” and inserting “the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002”.

#### PURPOSE OF THE BILL

The purpose of H.R. 4883 is to reauthorize the Hydrographic Services Improvement Act of 1998 and for other purposes.

#### BACKGROUND AND NEED FOR LEGISLATION

When the United States was founded, its economy was largely dependent on maritime trade with Europe, and shipwrecks were an unfortunate but common cost of doing business. In 1807, President Thomas Jefferson recognized that safe navigation was essential to the success of the young nation, and established the Coast Survey to make charts of U.S. waters. Now, both U.S. law and international treaties require the United States to provide charts adequate to ensure safe navigation in U.S. waters, and require most vessels operating in U.S. waters to carry up-to-date charts of all areas in which they travel. The National Ocean Service (NOS), one of the five line offices of the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce, now carries out this responsibility. NOS conducts hydrographic surveys of U.S. waters; measures tides and currents in coastal areas throughout the U.S.; establishes standard height references from which measurements can be taken; and issues nearly a thousand regular chart editions as well as tide and current predictions for the entire U.S. coastline.

Accurate nautical charts and other navigational information are still fundamental to the national transportation infrastructure. Ninety-eight percent of U.S. foreign trade by weight (47 percent by value) travels by ship, and shipping cannot take place safely or efficiently without accurate and up-to-date charts. In addition, much of the cargo that travels through U.S. waters is oil or other hazardous material, and inaccurate charts or incorrect tide and current measurements can cause financial and environmental disasters. Many natural and artificial processes continually change the shape of the seafloor, and continual updates and improvements to charts are necessary to prevent such accidents. A 1996 study by the National Academy of Public Administration noted that, “A single oil spill resulting from an out-of-date chart could cause damage exceeding the costs of the nautical charting program for a decade or more.”

During the post-World War II economic boom in this country, hydrographic surveying and nautical charting received strong finan-

cial support. The invention of the acoustic depth sounder in the 1940s greatly increased survey speed and accuracy over the previous technique of casting a weighted line over the side of the vessel at intervals. Much of the data incorporated in present charts was collected between the 1940s and the 1970s. Since then, however, support for the program has eroded significantly. Funding for navigation services (in constant 1994 dollars) dropped from \$94.5 million in 1979 to \$47.7 million in 1994, a decrease of 50 percent. In 1971, NOAA had 11 hydrographic survey ships, most of them less than ten years old. Today, NOAA has only three ocean-going hydrographic survey ships, the youngest of which was built in 1968. A fourth vessel also built in 1968 is being reactivated.

This erosion of support significantly reduced the effectiveness of the program. In 1993, NOS identified a backlog of 43,000 square nautical miles of "critical areas"—that is, areas with heavy large vessel traffic, shallow water, and inadequate or obsolete surveys—which must be resurveyed to ensure safe navigation. NOAA expects the backlog to be approximately 27,965 square nautical miles by the end of the current fiscal year. Many of these critical areas are approaches to major ports, or heavily used inshore areas with unstable bottom topography. The rest are large areas, primarily in Alaska waters, which have never been surveyed with modern equipment but have recently experienced major increases in oil tanker, cargo carrier, and cruise ship traffic. NOAA estimated that it would require more than 20 years at Fiscal Year 2000 funding levels to complete these critical surveys. This does not include the additional 200–300 reports of new wrecks and obstructions that NOAA must investigate every year. The President requested additional funds for hydrographic surveying in Fiscal Year 2003. Materials accompanying NOAA's Fiscal Year 2003 budget request notes the importance of updated hydrographic data to homeland security efforts and sets a goal of 10 years to complete surveying the remaining areas considered critical to navigation.

This lack of updated chart data is particularly worrisome in light of recent advances in navigation technology. Using new Global Positioning System satellite navigation technology, ships can determine their position with an error of only a few meters. Older charts were drawn using less accurate positioning systems, and shallows, rocks, wrecks or other obstructions can be plotted as much as several hundred meters away from their true position. If old, inaccurate data are incorporated into new navigation systems, this mismatch between different navigation techniques may actually increase the danger of accidents. New, more accurate navigation systems have the potential to greatly improve safety and efficiency, but this cannot be realized if charts remain based on old, less precise data.

In 1997, NOAA presented a plan for addressing the survey backlog. The agency proposed to modernize the equipment on its three existing survey vessels and use those vessels for the remainder of their service lives; significantly increase contracting with private-sector survey companies for hydrographic data; and investigate leasing of privately-owned survey ships and outsourcing operation of federally-owned vessels as possible options. The equipment upgrades have been completed, and funds have been provided to replace the RUDE, the smallest of the NOAA's survey vessels, with

a small waterplane area twin hull vessel. Funds have also been provided to reactivate the FAIRWEATHER, a NOAA hydrographic vessel that was laid up due to earlier budget cuts. The agency has increased contracting significantly, and received funds in Fiscal Year 2002 to enter into a vessel time charter for a hydrographic vessel.

In response to the need to modernize the U.S. hydrographic services program, Congress adopted the Hydrographic Services Improvement Act of 1998 (HSIA), Title III of Public Law 105-384. NSIA authorizes NOAA to maintain sufficient equipment, personnel, and expertise to ensure the quality of all data incorporated into United States nautical charts and other navigational products, and authorizes NOAA to select hydrographic contractors under Title IX of the Federal Property and Administrative Services Act of 1949 (the "Brooks Act"). The Brooks Act allows government agencies to let contracts on a qualifications basis rather than a cost basis for certain technical services.

The reduction in funding for NOAA navigation services programs from the mid-1970s through the mid-1990s also crippled tide and current measurement and prediction programs. In the past, pilots entering ports have relied on tide predictions, which are computed months in advance, to tell them how much water they are likely to have under their keel and how strong the current is likely to be. Since actual water levels and currents can differ significantly from predicted values, this creates a risk of grounding if the water level is lower than predicted, as well as a missed opportunity to move vessels in and out of port when the water level is higher than predicted.

A lack of funding to collect tide and current data means that two-thirds of the data used for tidal predictions are more than 40 years old. Since natural and artificial changes in the shape of channels continuously affect tide and current patterns, tide predictions for some regions are now dangerously obsolete. In fact, NOAA has withdrawn current predictions in some major ports. This threatens to reduce the international competitiveness of U.S. ports, and significantly increase the risk of accidents. Many members of the commercial shipping industry feel that improving real-time tide and current information should be the highest priority in modernizing U.S. navigation services.

Many large international ports now have real-time systems that measure water level, current, wind, and other parameters throughout channels and maneuvering areas, and deliver this information continuously to pilots. These systems can yield huge improvements in port safety and efficiency. Seven U.S. ports—New York/New Jersey, Houston/Galveston, San Francisco, Tampa, Narragansett, Los Angeles/Long Beach, and Soo Locks in Saulte Ste Marie, Michigan—are now equipped with such systems, called PORTS. PORTS are being implemented in the Delaware River and Bay and the Chesapeake Bay. Seven less comprehensive systems are in place in other ports, and planning and discussions are under way to expand this coverage.

Currently, NOAA is responsible for the accuracy of tide and current data, and ensures that tide and current information collection, analysis, and distribution procedures are standardized throughout U.S. waters. Individual municipalities or port authorities operate

and maintain the instruments that collect this locally applicable data. Existing NOAA policy and direction in the Department of Commerce Appropriations Act require the beneficiaries of real-time tide and current systems to pay for operation and maintenance of those systems.

Federal navigational services programs yield a payoff in both economic competitiveness, human safety, and environmental protection. Therefore, lack of attention to these programs reduces U.S. competitiveness and lessens the protection of human life and the environment.

The NOAA Commissioned Officer Corps, formerly the Coast and Geodetic Survey, is the smallest of the seven uniformed services of the United States, and like the Public Health Service is not military in nature. The NOAA Corps officers serve in staff assignments throughout NOAA, and operate the agency's ships, and aircraft. Corps officers are primary collectors of NOAA's hydrographic data. Title II of H.R. 4883 updates and consolidates the patchwork of existing authorities governing the Corps. The renewed authorities are entirely organizational and include the authorized number of personnel, appointment and promotion of officers, separation and retirement authorities, and rights and benefits. No changes to Corps authorities or benefits are intended by these changes.

#### COMMITTEE ACTION

H.R. 4883 was introduced on June 6, 2002, by Congressman Don Young (R-AK). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On June 20, 2002, the Subcommittee met to mark up the bill. Congressman Wayne Gilchrest (R-MD) offered an amendment in the nature of a substitute which incorporates the text of H.R. 4882, the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, into the bill. It was adopted by unanimous consent. The bill was then ordered favorably reported to the Full Committee. On June 25, 2002, the Full Resources Committee met to consider the bill. No further amendments were offered and the bill as amended was then ordered favorably reported to the House of Representatives by unanimous consent.

#### SECTION-BY-SECTION ANALYSIS

##### TITLE I—HYDROGRAPHIC SERVICES IMPROVEMENT

###### *Section 101. Short Title; References.*

The short title of Title I is the "Hydrographic Services Improvement Act Amendments of 2002". Unless otherwise indicated any amendments made in Title I are to the Hydrographic Services Improvement Act of 2002.

###### *Section 102. Definitions.*

The HSIA directs the Secretary acquire hydrographic data through contracts to the greatest extent practicable and cost-effective. It also directs the Secretary to award contracts for hydrographic data through Brooks Act procedures. The Secretary uses this authority routinely to enter into contracts for bathymetric sur-



veys. However, concerns have been raised that the Secretary has not adopted the routine use of these contracts for other geospatial measurements. The addition of geospatial measurements to the definitions of hydrographic data and hydrographic services is meant to make clear the Committee's intention that the contracting requirement in Section 303(a)(8) and the Brooks Act provision in Section 303(b)(3) apply to contracts and subcontracts for services paid for with Federal funds to acquire any geospatial data used to provide hydrographic services, including the acquisition of graphical or digital data depicting natural or man made physical features, phenomena or boundaries of the earth and any information related thereto, including but not limited to surveys, maps, charts, remote sensing data and images and aerial photographic services performed by professionals such as surveyors, photogrammetrists, hydrographers, geodesists and cartographers. The Committee also intends that, on vessels time chartered under contracts paid for with Federal funds, hydrographers that acquire hydrographic data used to provide hydrographic services be hired used Brooks Act procedures. Geomagnetic measurements are added to the definitions to assure conformity with the Act of 1947.

*Section 103. Functions of the Administrator.*

Subsection (a) directs the Secretary of Commerce, subject to the availability of appropriations, to not only maintain a data quality assurance program, but to design, install maintain and operate real-time hydrographic systems monitoring systems, which can be either comprehensive physical oceanographic real time systems or less comprehensive systems that meet the needs of smaller or hydrographically complex ports.

Data collected to provide hydrographic services may also have uses in coastal or fishery management. The Committee does not want to divert NOAA's navigation services programs from their primary mission, but does want to encourage the distribution of appropriate data to coastal and fishery managers who have a use for it. Therefore, subsection (b) directs the Secretary to use hydrographic data to support the conservation and management of coastal and ocean resources where it does not interfere the promotion of safe and efficient navigation.

*Section 104. Quality Assurance Program.*

HSIA authorized the Secretary of Commerce to establish a quality assurance program to certify hydrographic products produced by private firms. No such program has been established. Subsection (a) directs NOAA to establish such a program not later than two years after the date of enactment. Subsection (b) directs NOAA, to the maximum extent practicable, to assure that U.S. certified hydrographic products meet international carriage requirements. Subsection (f) directs NOAA to report annually to the Hydrographic Services Review Panel on NOAA's compliance with Section 3(d) of Executive Order 12906 and Office of Management and Budget Circular A-16 with respect to the collection and production of new hydrographic data and products by NOAA.

*Section 105. Hydrographic Services Review Panel.*

Hydrographic services users and private sector geospatial contractors have been vital to efforts to modernize NOAA's navigation services program over the last eight years. They have provided advice on the types and characteristics of products that would be useful, and technical innovations that are available in the collection and dissemination of hydrographic data. They have also played a crucial role in developing support within Congress and NOAA for modernizing NOAA's navigation services program. Section 105 establishes the Hydrographic Services Review Panel which gives navigation services user groups and those with expertise in geospatial reference technologies a formal mechanism for working with the NOAA on these issues.

*Section 106. Plan Regarding Photogrammetry and Remote Sensing.*

As was discussed above, concerns have been expressed that NOAA's efforts to contract for geospatial measurements other than hydrographic surveys have lagged behind expectations embodied in the HSIA. Section 106 directs NOAA to submit a plan to the appropriate Congressional committees to increasing contracting for photogrammetric, remote sensing and other geospatial reference services related to hydrographic data acquisition or hydrographic services.

*Section 107. Authorization of Appropriations.*

Section 107 authorizes appropriations for the program under the HSIA through Fiscal Year 2007.

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

Title II may be cited as "The National Oceanic and Atmospheric Administration Commissioned Officers Corps Act of 2002". It updates and consolidates the patchwork of existing authorities for governing the Corps. The renewed authorities are entirely organizational and include the authorized number of personnel, appointment and promotion of officers, separation and retirement authorities, and rights and benefits.

**COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

**FEDERAL ADVISORY COMMITTEE STATEMENT**

The functions of the proposed advisory committee authorized in the bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

**CONSTITUTIONAL AUTHORITY STATEMENT**

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to reauthorize the Hydrographic Services Improvement Act of 1998.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 12, 2002.*

Hon. JAMES V. HANSEN,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4883, the Hydrographic Services Improvement Act Amendments of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 4883—Hydrographic Services Improvement Act Amendments  
of 2002*

Summary: H.R. 4883 would authorize the appropriation of \$886 million over the 2003–2007 period for hydrographic activities carried out by the National Oceanic and Atmospheric Administration (NOAA). Such services include nautical mapping and charting, collecting hydrographic data, maintaining a geodetic reference system, and measuring tides and currents. Of the amounts authorized, \$50 million would be earmarked for activities related to homeland security.

Title II of the bill would consolidate existing laws that govern the NOAA commissioned officers corps. Such laws involve authorized personnel levels, appointments and promotions, separation and retirement, and rights and benefits. CBO estimates that enacting title II would have no budgetary impact.

Enacting H.R. 4883 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: Assuming appropriation of the amounts authorized by H.R. 4883, CBO estimates that NOAA would spend \$811 million over the 2003–2007 period to perform ongoing hydrographic services. (An additional \$75 million of the authorized total would be spend after 2007.) The estimated cost of the bill is summarized in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year in millions of dollars—					
	2002	2003	2004	2005	2006	2007
Spending on Hydrographic Services, Under Current Law:						
Budget Authority <sup>1</sup> .....	120	0	0	0	0	0
Estimated Outlays .....	120	36	10	0	0	0
Proposed Changes:						
Authorization Level .....	0	193	155	168	180	191
Estimated Outlays .....	0	110	150	170	185	196
Spending on Hydrographic Services, Under H.R. 4883:						
Authorization Level <sup>1</sup> .....	120	193	155	168	180	191
Estimated Outlays .....	120	146	160	170	185	196

<sup>1</sup> The 2002 level is the amount appropriated for that year.

Basis of estimate: For each year, the proposed authorization level is equal to the amounts specified by the bill, including \$50 million for fiscal year 2003 to enhance this program's contributions to homeland security. The estimated outlays are based on historical spending patterns for hydrographic services and related activities.

CBO estimates that enacting title II would have no impact on the federal budget. Most of the provisions of this title involve reorganizing existing statutes. The few changes made to existing law would not affect the cost of maintaining a commissioned officers corps.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 4883 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated prepared by: Federal costs: Deborah Reis; impact on state, local, and tribal governments: Elyse Goldman; impact on the private sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**HYDROGRAPHIC SERVICES IMPROVEMENT ACT OF 1998****TITLE III—NOAA HYDROGRAPHIC SERVICES**

\* \* \* \* \*

**SEC. 302. DEFINITIONS.**

In this title:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.

\* \* \* \* \*

(3) **HYDROGRAPHIC DATA.**—The term “hydrographic data” means information acquired through hydrographic or bathymetric surveying, photogrammetry, geodetic, *geospatial*, or *geomagnetic* measurements, tide and current observations, or other methods, that is used in providing hydrographic services.

(4) **HYDROGRAPHIC SERVICES.**—The term “hydrographic services” means—

(A) the management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, geodetic, *geospatial*, *geomagnetic*, and tide and current information, including the production of nautical charts, nautical information databases, and other products derived from hydrographic data;

\* \* \* \* \*

**SEC. 303. FUNCTIONS OF THE ADMINISTRATOR.**

(a) \* \* \*

(b) **AUTHORITIES.**—To fulfill the data gathering and dissemination duties of the Administration under the Act of 1947, and subject to the availability of appropriations, the Administrator—

(1) \* \* \*

\* \* \* \* \*

[(4) may design and install where appropriate Physical Oceanographic Real-Time Systems to enhance navigation safety and efficiency.]

(4) *shall, subject to the availability of appropriations, design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency.*

(c) **CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.**—*Where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Secretary may use hydrographic data and services to support the conservation and management of coastal and ocean resources.*

**SEC. 304. QUALITY ASSURANCE PROGRAM.**

(a) \* \* \*

(b) PROGRAM.—

**[(1) IN GENERAL.—The Administrator may—**        **[(A) develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3);**        **[(B) authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and**        **[(C) charge a fee for such certification and use.]]**(1) *IN GENERAL.—The Administrator—*    *(A) by not later than 2 years after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, shall, subject to the availability of appropriations, develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3) of this Act;*    *(B) may authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and*    *(C) may charge a fee for such certification and use.*

\* \* \* \* \*

**(3) ACCEPTANCE AND RECOGNITION OF CERTIFICATIONS.—***The Administrator shall, to the maximum extent practicable, assure that any international organizations and agreements to which the United States is a party which affect hydrographic products and nautical charts accept or recognize, respectively, hydrographic products certified by the Administrator under this subsection.*

\* \* \* \* \*

(f) **ANNUAL STUDY AND REPORT REGARDING IMPLEMENTATION OF EXECUTIVE ORDER AND OMB CIRCULAR.—**    **(1) IN GENERAL.—***The Administrator shall annually conduct a study of, and report to the panel established under section 305 regarding, steps taken to comply with section 3(d) of Executive Order 12906 and Office of Management and Budget Circular A-16 with respect to the collection and production of new hydrographic data and products by the Administration.*    **(2) CONSULTATION.—***In carrying out the study and report, the Administrator shall consult with the Federal Geographic Data Committee.*

\* \* \* \* \*

**[SEC. 305. REPORTS.****[(b) MAINTAINING FEDERAL EXPERTISE IN HYDROGRAPHIC SERVICES.—**    **[(1) IN GENERAL.—**Not later than 6 months after the date of the enactment of this Act, the Administrator shall report to the Congress on a plan to ensure that Federal competence and ex-

expertise in hydrographic surveying will be maintained after the decommissioning of the 3 existing Administration hydrographic survey vessels.

[(2) CONTENTS.—The report shall include—

[(A) an evaluation of the seagoing capacity, personnel, and equipment necessary to maintain Federal expertise in hydrographic services;

[(B) an estimated schedule for decommissioning the 3 existing survey vessels;

[(C) a plan to maintain Federal expertise in hydrographic services after the decommissioning of these vessels; and

[(D) an estimate of the cost of carrying out this plan.

**[SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

[There is authorized to be appropriated to the Administrator the following:

[(1) To carry out nautical mapping and charting functions under the Act of 1947 and sections 303 and 304, except for conducting hydrographic surveys, \$33,000,000 for fiscal year 1999, \$34,000,000 for fiscal year 2000, and \$35,000,000 for fiscal year 2001.

[(2) To conduct hydrographic surveys under section 303(a)(1), including the leasing of ships, \$33,000,000 for fiscal year 1999, \$35,000,000 for fiscal year 2000, and \$37,000,000 for fiscal year 2001. Of these amounts, no more than \$16,000,000 is authorized for any one fiscal year to operate hydrographic survey vessels owned and operated by the Administration.

[(3) To carry out geodetic functions under the Act of 1947, \$25,000,000 for fiscal year 1999, \$30,000,000 for fiscal year 2000, and \$30,000,000 for fiscal year 2001.

[(4) To carry out tide and current measurement functions under the Act of 1947, \$22,500,000 for each of fiscal years 1999 through 2001. Of these amounts \$4,500,000 is authorized for each fiscal year to implement and operate a national quality control system for real-time tide and current and maintain the national tide network, and \$7,000,000 is authorized for each fiscal year to design and install real-time tide and current data measurement systems under section 303(b)(4).]

**SEC. 305. HYDROGRAPHIC SERVICES REVIEW PANEL.**

(a) *ESTABLISHMENT.*—No later than 1 year after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, the Secretary shall establish the Hydrographic Services Review Panel.

(b) *DUTIES.*—

(1) *IN GENERAL.*—The panel shall advise the Administrator on matters related to the responsibilities and authorities set forth in section 303 of this Act and such other appropriate matters as the Administrator refers to the panel for review and advice.

(2) *ADMINISTRATIVE RESOURCES.*—The Administrator shall make available to the panel such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

(c) *MEMBERSHIP.*—(1) *IN GENERAL.*—

(A) *The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Director of the Joint Hydrographic Institute and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as non-voting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic surveying, tide, current geodetic and geospatial measurement, marine transportation, port administration, vessel pilotage, and coastal and fishery management.*

(B) *An individual may not be appointed as a voting member of the panel if the individual is a full-time officer or employee of the United States.*

(C) *Any voting member of the panel who is an applicant for, or beneficiary (as determined by the Secretary) of, any assistance under this Act shall disclose to the panel that relationship, and may not vote on any matter pertaining to that assistance.*

(2) *TERMS.*—

(A) *The term of office of a voting member of the panel shall be 4 years, except that of the original appointees, five shall be appointed for a term of 2 years, five shall be appointed for a term of 3 years, and five shall be appointed for a term of 4 years, as specified by the Administrator at the time of appointment.*

(B) *Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office.*

(3) *NOMINATIONS.*—*At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel.*

(4) *CHAIRMAN AND VICE CHAIRMAN.*—

(A) *The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman.*

(B) *The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.*

(d) *COMPENSATION.*—*Voting members of the panel shall—*

(1) *receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and*

(2) *be reimbursed for actual and reasonable expenses incurred in the performance of such duties.*

(e) *MEETINGS.*—*The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Secretary.*

(f) *POWERS.*—*The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b).*



**SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

*There are authorized to be appropriated to the Administrator the following:*

*(1) To carry out nautical mapping and charting functions under sections 303 and 304 of this Act, except for conducting hydrographic surveys—*

- (A) \$50,000,000 for fiscal year 2003;*
- (B) \$55,000,000 for fiscal year 2004;*
- (C) \$60,000,000 for fiscal year 2005;*
- (D) \$65,000,000 for fiscal year 2006; and*
- (E) \$70,000,000 for fiscal year 2007.*

*(2) To contract for hydrographic surveys under section 303(b)(1), including the leasing or time chartering of vessels—*

- (A) \$40,000,000 for fiscal year 2003;*
- (B) \$42,500,000 for fiscal year 2004;*
- (C) \$45,000,000 for fiscal year 2005;*
- (D) \$47,500,000 for fiscal year 2006; and*
- (E) \$50,000,000 for fiscal year 2007.*

*(3) To carry out geodetic functions under this title—*

- (A) \$27,500,000 for fiscal year 2003;*
- (B) \$30,000,000 for fiscal year 2004;*
- (C) \$32,500,000 for fiscal year 2005;*
- (D) \$35,000,000 for fiscal year 2006; and*
- (E) \$35,500,000 for fiscal year 2007.*

*(4) To carry out tide and current measurement functions under this title—*

- (A) \$25,000,000 for fiscal year 2003;*
- (B) \$27,500,000 for fiscal year 2004;*
- (C) \$30,000,000 for fiscal year 2005;*
- (D) \$32,500,000 for fiscal year 2006; and*
- (E) \$35,000,000 for fiscal year 2007.*

*(5) To carry out activities authorized under this title that enhance homeland security, including electronic navigation charts, hydrographic surveys, real time tide and current measurements, and geodetic functions, in addition to other amounts authorized by this section, \$50,000,000.*

\* \* \* \* \*

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**COAST AND GEODETIC SURVEY COMMISSIONED  
OFFICERS' ACT OF 1948**

**【SHORT TITLE**

**【SECTION 1.** That this Act may be cited as the “Coast and Geodetic Survey Commissioned Officers’ Act of 1948”.

**【AUTHORIZED NUMBERS IN GRADES**

**【SEC. 2.** (a)(1) Except as provided in paragraph (2), there are authorized to be not less than 264 and not more than 299 commissioned officers on the active list of the National Oceanic and Atmospheric Administration for fiscal years 1999, 2000, 2001, 2002, and 2003.

[(2) The Administrator may reduce the number of commissioned officers on the active list below 264 if the Administrator determines that it is appropriate, taking into consideration—

[(A) the number of billets on the fisheries, hydrographic, and oceanographic vessels owned and operated by the Administration;

[(B) the need of the Administration to collect high-quality oceanographic, fisheries, and hydrographic data and information on a continuing basis;

[(C) the need for effective and safe operation of the Administration's fisheries, hydrographic and oceanographic vessels;

[(D) the need for effective management of the commissioned Corps; and

[(E) the protection of the interests of taxpayers.

[(3) At least 90 days before beginning any reduction as described in paragraph (2), the Administrator shall provide notice of such reduction to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

[(b) Of the total authorized number of commissioned officers on the active list of the Coast and Geodetic Survey, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in the proportion of eight in the grade of captain, to fourteen in the grade of commander, to nineteen in the grade of lieutenant commander, to twenty-three in the grade of lieutenant, to eighteen in the grade of lieutenant (junior grade), to eighteen in the grade of ensign.

[(c) Whenever a final fraction occurs in computing the authorized number of officers in any grade, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken: *Provided*, That the total number of officers as authorized by law shall not be increased as the result of the computations prescribed herein, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

[(d) No officer shall be reduced in grade or pay or separated from the active list as the result of any computations made to determine the authorized number of officers in the various grades.

[(e) Nothing in this section shall be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

[(f) The total number of officers on active duty as authorized by law may be temporarily exceeded provided that the average number on active duty for the fiscal year shall not exceed the authorized number.

#### [PROMOTION AND SEPARATION OF OFFICERS

[SEC. 3. Promotion to fill vacancies in all permanent grades above that of lieutenant (junior grade) shall be made by selection from the next lower respective grades upon recommendation of the personnel board hereinafter provided for.

[SEC. 4. Irrespective of any vacancies, each officer in the permanent grade of lieutenant (junior grade) and lieutenant shall be considered by the personnel board for promotion to the grade of lieutenant and lieutenant commander in sufficient time so that, if found fully qualified, such officer may be promoted to and ap-

pointed in such grade upon completion of seven and fourteen years of service, respectively. All promotions under this section shall be made on the date on which the required service is completed, and the authorized number of officers in the grade of lieutenant and lieutenant commander shall be temporarily increased, if necessary, to authorize such appointments: *Provided*, That an officer found not fully qualified in accordance with this section may be promoted on such later date on which he may be found fully qualified.

【SEC. 5. Irrespective of any vacancies, any officer in the permanent grade of lieutenant commander who has completed twenty-one years of service and any officer in the permanent grade of commander who has completed thirty years of service may be considered by the personnel board at any time for promotion to the grade of commander and captain, respectively. If selected, he may be promoted at any time and the authorized number of officers in the grade of commander and captain shall be temporarily increased, if necessary, to authorize such appointments.

【SEC. 6. (a) Officers in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) on completion of three years of service, and the authorized number of officers in the grade of lieutenant (junior grade) shall from time to time be temporarily increased as necessary to authorize such appointments.

【(b) Ensigns who are found not fully qualified at any time shall have their commissions revoked and be separated from the commissioned service.

【SEC. 7. Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any officer below him on the lineal list, except that an officer who has lost numbers shall be assumed to have for promotion purposes no greater service than the officer next above him in his new position on the lineal list.

【SEC. 8. (a) As recommended by the personnel board—

【(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

【(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

【(b) In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest four percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

【(c) Any retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary of Commerce approves the retirement or separation, except that if the officer concerned requests earlier retirement or separation, the date shall be as determined by the Secretary.

【SEC. 9. (a) An officer who is separated under section 8 and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary of Commerce determines that the conditions under which the officer is separated do not warrant payment of that pay.

[(b)(1) In the case of an officer who has completed five or more years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is 10 percent of the product of (A) the years of active service creditable to the officer, and (B) twelve times the monthly basic pay to which the officer was entitled at the time of separation.

[(2) In the case of an officer who has completed three but fewer than five years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is one-half of the amount computed under paragraph (1).

[(c) In determining an officer's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

[(d) A period for which an officer has previously received separation pay, severance pay, or readjustment pay under any other provision of law based on service in a uniformed service may not be included in determining the years of creditable service that may be counted in computing the separation pay of the officer under this section.

[(e)(1) An officer who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in a uniformed service and who later qualifies for retired pay under this Act shall have deducted from each payment of retired pay so much of that pay as is based on the service for which the officer received that separation pay, severance pay, or readjustment pay until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay received.

[(2) An officer who has received separation pay under this section may not be deprived, by reason of receipt of that pay, of any disability compensation to which the officer is entitled under the laws administered by the Secretary of Veterans Affairs, but there shall be deducted from that disability compensation an amount equal to the total amount of separation pay received, less the amount of Federal income tax withheld from such pay (such withholding being at the flat withholding rate for Federal income tax withholding, as in effect pursuant to regulations prescribed under chapter 24 of the Internal Revenue Code of 1986). Notwithstanding the preceding sentence, no deduction may be made from disability compensation for the amount of separation pay received because of an earlier discharge, separation, or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.

[SEC. 10. (a) Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

[(b) In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in his discretion, to suspend the operation of all or any part or parts of the several provisions of law pertaining to promotion.

【SEC. 11. Nothing in this Act shall be construed to modify the provisions of existing law relating to examination of officers for promotion, and no officer shall be promoted until he shall have passed the prescribed examinations.

【SEC. 12. (a) Temporary appointment in the grade of ensign may be made by the President alone, provided such temporary appointment will be terminated at the close of the next regular session of the Congress unless confirmed by the Senate.

【(b) Officers in the permanent grade of ensign may be temporarily promoted to and appointed in the grade of lieutenant junior grade by the President alone whenever vacancies exist in higher grades.

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

#### 【RETIREMENT OF OFFICERS

【SEC. 13. (a) When any commissioned officer serving in a rank below that of rear admiral has attained the age of sixty years, he shall be placed on the retired list: *Provided*, That this subsection shall not become effective until a date six months subsequent to the enactment of this Act, and until such effective date the retirement age for officers serving in a rank below that of rear admiral shall be sixty-two years.

【(b) When any officer serving in a rank above that of captain has attained the age of sixty-two years, he shall be placed on the retired list: *Provided*, That the President may, in his discretion, defer placing any such officer on the retired list for the length of time he deems advisable but not later than the date upon which such officer attains the age of sixty-four years.

【SEC. 14. When any commissioned officer has completed twenty years of service, he may at any time thereafter, upon his own application, in the discretion of the President, be placed on the retired list.

【SEC. 16. (a) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

【(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by

【(2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

The retired pay so computed may not exceed 75 percent of the retired pay base.

【(b) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

【(1) the retired pay base determined under section 1407 of title 10, United States Code; by

[(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

[(c)(1) In computing the number of years of service of an officer for the purposes of subsection (a)—

[(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as  $\frac{1}{12}$  of a year; and

[(B) any remaining fractional part of a month shall be disregarded.

[(2) Retired pay computed under this section, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

[SEC. 17. (a) Each commissioned officer heretofore or hereafter retired pursuant to any provision of law shall be placed on the retired list with the highest rank, permanent or temporary, held by him while on active duty, if his performance of duty, in the case of temporary rank, has been satisfactory as determined by the Secretary of the department or departments under whose jurisdiction the officer served, and shall receive retired pay based on such higher rank: *Provided*, That for the purposes of this section the words "temporary rank" shall mean temporary rank held prior to June 30, 1946.

[(b) Officers on the retired list returned to an inactive status with higher rank pursuant to subsection (a) of this section shall receive retired pay based on such higher rank.

[SEC. 18. Nothing in this Act shall prevent any officer from being placed on the retired list with the highest rank and with the highest retired pay to which he might be entitled under other provision of law.

#### [PERSONNEL BOARD

[SEC. 19. At least once a year and at such other times as may be necessary, the Secretary of Commerce shall appoint a personnel board consisting of not less than five officers not below the permanent rank of commander on the active list, to recommend such changes in the lineal list as the board may determine, and to make selections and recommendations for the promotion, separation, and retirement of officers as herein prescribed: *Provided*, That in case any recommendation by the board is not acceptable to the Secretary of Commerce or to the President, the board shall make such further recommendations as shall be acceptable.

#### [AMENDMENTS TO THE REPEAL OF APPOINTMENT, PROMOTION, AND RETIREMENT LAWS

[SEC. 21. (a) Section 5 of the Act of February 16, 1929 (45 Stat. 1186), as amended by the Act of March 18, 1936 (ch. 147, 49 Stat. 1164), is hereby further amended by deleting the word "not" in the third line

[(b) Section 8 of the Act of January 19, 1942 (59 Stat. 8), is hereby amended by deleting the word "not" in the fourth line, by changing the period at the end of the section to a colon, and by adding the words "*Provided further*, That any officer, upon expiration of his appointment as Director or Assistant Director, shall, unless re-

appointed, revert to the grade and number that he would have occupied had he not served as Director or Assistant Director. Such officer shall be an extra number in his grade and the authorized number of ensigns shall be decreased accordingly.”

【SEC. 22. (a) Sections 1, 2 (except the second proviso of section 2 (b)), 3, 4, 5, and 6 of the Act of January 19, 1942 (59 Stat. 8) are hereby repealed.

【(b) The word “physicial” in the first line of section 7 of the said Act of January 19, 1942, is hereby amended to read “physical”.

【SEC. 23. (a) Original appointments may be made in grades up to and including lieutenant after passage of a mental and physical examination given in accordance with regulations prescribed by the Secretary of Commerce: *Provided*, That the President, under such regulations as he may prescribe, may revoke the commission of any officer appointed under this section during his first three years of service if he is found not qualified for the service.

【(b) Any person appointed under authority of this section shall be placed on the lineal list of active duty officers in a position commensurate with his age, education, and experience in accordance with regulations prescribed by the Secretary of Commerce.

【(c)(1) For the purposes of basic pay any person appointed under this section to the grade of lieutenant or lieutenant (junior grade) shall be considered as having, on date of appointment, three years or one and one-half years service respectively.

【(2) If a person appointed under this section is entitled to credit for the purpose of basic pay under other provision of law which would exceed that authorized by subsection (c)(1) he shall be credited with that service in lieu of the credit provided by subsection (c)(1).

【SEC. 24. (a) The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that commissioned officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half) as designated by the Secretary for each position, and may assign officers to those positions. One such position shall be appointed from the officers on the active duty promotion list serving in or above the grade of captain, and who shall be responsible for administration of the commissioned officers, and for oversight of the operation of the vessel fleet, of the Administration. An officer assigned to any position under this section has the grade designated for that position if appointed to that grade by the President, by and with the advice and consent of the Senate.

【(b) The number of officers serving on active duty under appointments under this section may not exceed—

【(1) one in the grade of vice admiral;

【(2) three in the grade of rear admiral; and

【(3) three in the grade of rear admiral (lower half).

【(c) An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

【(d) An appointment of an officer under this section—

【(1) does not vacate the permanent grade held by the officer; and

【(2) creates a vacancy on the active list.

[(e) The provisions of section 2(g) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.) apply to an officer who serves in a grade above captain under an appointment under this section in the same manner as if the officer served in that grade under section 2(d) or 2(f) of that Reorganization Plan.

[SEC. 25. (a) PRESENTATION OF FLAG UPON RETIREMENT.—Upon the release of a commissioned officer from active commissioned service for retirement, the Secretary of Commerce shall present a United States flag to the officer.

[(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—An officer is not eligible for presentation of a flag under subsection (a) if the officer has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

[(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.]

### SECTION 3 OF THE ACT OF AUGUST 10, 1956

AN ACT To revise, codify, and enact into law, title 10 of the United States Code, entitled “Armed Forces”, and title 32 of the United States Code, entitled “National Guard”.

[SEC. 3. (a) The rules of law that apply to the Armed Forces under the following provisions of title 10, Armed Forces, United States Code, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the National Oceanic and Atmospheric Administration:

[(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

[(2) Chapter 61, Retirement or Separation for Physical Disability.

[(3) Chapter 69, Retired Grade, except sections 1370, 1375, and 1376(a).

[(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

[(5) Chapter 73, Retired Serviceman’s Family Protection Plan; Survivor Benefit Plan.

[(6) Chapter 75, Death Benefits.

[(7) Section 2771, Final settlement of accounts: deceased members.

[(8) Sections 2731, 2732, and 2735, property loss incident to service.

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

[(10) Chapter 40. Leave.

[(11) Section 2634, Motor vehicles: for members on permanent change of station.

[(12) Section 1035, Deposits of Savings.

[(13) Section 716, Commissioned officers: transfers between armed forces and to and from National Oceanic and Atmospheric Administration.

[(14) Section 7572(b), Quarters: accommodations in place of for members on sea duty.



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

[(16) Section 1052, Reimbursement for adoption expenses.

[(17) Section 1059, Transitional compensation and commissary and exchange benefits for dependents of members separated for dependent abuse.

[(b) The authority vested by title 10, United States Code, in the “military departments”, “the Secretary concerned”, or “the Secretary of Defense” with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the National Oceanic and Atmospheric Administration, by the Secretary of Commerce or his designee.]

## ACT OF DECEMBER 31, 1970

(Public Law 91-621)

AN ACT To clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

【SECTION 1. Definitions listed in section 101 of title 10, United States Code, apply to this Act, except as noted below:

[(1) “active duty” means full-time duty in the active service of a uniformed service;

[(2) “Administration” means the National Oceanic and Atmospheric Administration;

[(3) “grade” means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation;

[(4) “officer” means a commissioned officer;

[(5) “Secretary” means the Secretary of Commerce;

[(6) “Secretary concerned” is defined in section 101 of title 37, United States Code;

[(7) “uniformed services” is defined in section 101 of title 37, United States Code.

【SEC. 2. Each officer retired pursuant to any provision of law shall be placed on the retired list with the highest grade satisfactorily held by him while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and he shall receive retired pay based on such highest grade: *Provided*, That his performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served, and, unless retired for disability, his length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

【SEC. 3. (a) Active service of officers of the Administration shall be deemed to be active military service in the armed forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided by—

[(1) laws administered by the Secretary of Veterans Affairs;

[(2) laws administered by the Interstate Commerce Commission; and

[(3) the Soldiers' and Sailors' Civil Relief Act of 1940, as amended.

In the administration of these laws and regulations, with respect to the National Oceanic and Atmospheric Administration, the authority vested in the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force and their respective departments shall be exercised by the Secretary of Commerce.

[(b) The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.

[SEC. 4. (a) Commissioned officers, ships' officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the armed forces at the prices charged officers and enlisted men of those services.

[(b) The Secretary may purchase ration supplies for messes, stores, uniforms, accouterments, and related equipment for sale aboard ship and shore stations of the Administration to members of the uniformed services and to personnel assigned to such ships or shore stations. Sales shall be in accordance with regulations prescribed by the Secretary, and proceeds therefrom shall, as far as is practicable, fully reimburse the appropriations charged without regard to fiscal year.

[(c) Rights extended to members of the uniformed services in this section are extended to their widows and to such others as are designated by the Secretary concerned.

[SEC. 5. (a) All statutes that applied to commissioned officers of the Coast and Geodetic Survey on July 12, 1965, shall apply to officers of the Environmental Science Services Administration on that date and subsequent thereto, unless amended or repealed, and service as a commissioned officer in the Coast and Geodetic Survey shall constitute service as a commissioned officer in the Environmental Science Services Administration.

[(b) All statutes that applied to commissioned officers of the Coast and Geodetic Survey on July 12, 1965, and to commissioned officers of the Environmental Science Services Administration subsequent to that date shall apply to officers of the National Oceanic and Atmospheric Administration on October 3, 1970, and subsequent thereto, unless amended or repealed, and service as a commissioned officer in the Coast and Geodetic Survey or the Environmental Science Services Administration shall constitute service as a commissioned officer in the National Oceanic and Atmospheric Administration.

[(c) The enactment of this Act does not increase or decrease the pay or allowances of any person.

[(d) A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provisions enacted by this Act.

[(e) An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provisions enacted by this Act until repealed, amended, or superseded.

[(f) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

[(g) If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

[SEC. 6. (a) Title 38, United States Code, is amended as follows:

[(1) Section 101(21)(C) of such title 38 is amended by inserting the words "the National Oceanic and Atmospheric Administration or its predecessor organization" after "officer of" in the first line;

[(2) Section 101(25)(F) of such title 38 is amended by inserting "the National Oceanic and Atmospheric Administration or its predecessor organization" after "concerning"; and

[(3) Section 3105 of such title 38 is amended by striking "Coast and Geodetic Survey" and substituting "National Oceanic and Atmospheric Administration".

[(b) The effective date of an award by the Veterans' Administration of disability compensation or dependency and indemnity compensation arising from an injury or death occurring prior to enactment of this Act and based on a claim filed by an individual who first became eligible for veterans' benefits by reason of the amendments made by the foregoing subsections shall be the date following the date of his discharge or release, or the first day of the month in which death occurred: *Provided*, That application therefor is filed within six months after the effective date of this Act.

[SEC. 7. (a) Section 216 of title II of the National Housing Act, as amended, is amended to read as follows:

["WAIVER OF OCCUPANCY REQUIREMENTS FOR SERVICEMEN

["SEC. 216. The Secretary is hereby authorized to insure any mortgage otherwise eligible for insurance under any of the provisions of this Act without regard to any requirement that the mortgagor be the occupant of the property at the time of insurance, where the Secretary is satisfied that the inability of the mortgagor to occupy the property is by reason of his entry on active duty in a uniformed service subsequent to the filing of an application for insurance and the mortgagor expresses an intent to occupy the property upon his release from active duty."

[(b) Section 222 of title II of the National Housing Act, as amended, is amended to read as follows:

["MORTGAGE INSURANCE FOR SERVICEMEN

["SEC. 222. (a) The purpose of this section is to aid in the provision of housing accommodations for servicemen in the armed forces of the United States Coast Guard and their families, and servicemen in the United States National Oceanic and Atmospheric Administration and their families by supplementing the insurance of mortgages under section 203 of this title with a system of mortgage insurance specially designed to assist the financing required for the construction or purchase of dwellings by those persons. As used in this section, as 'serviceman' means a person to whom the Secretary of Defense (or any officer or employee designated by him), the Secretary of Transportation (or any officer or employee designated by

him), or the Secretary of Commerce (or any officer or employee designated by him), as the case may be, has issued a certificate hereunder indicating that such person requires housing, is serving on active duty in the armed forces of the United States, in the United States Coast Guard, or in the United States National Oceanic and Atmospheric Administration and has served on active duty for more than two years, but a certificate shall not be issued hereunder to any person ordered to active duty for training purposes only. The Secretary of Defense, the Secretary of Transportation, and the Secretary of Commerce, respectively, are authorized to prescribe rules and regulations governing the issuance of such certificates and may withhold issuance of more than one such certificate to a serviceman whenever in his discretion issuance is not justified due to circumstances resulting from military assignment, or, in the case of the United States Coast Guard or the United States National Oceanic and Atmospheric Administration, other assignment.

["(b) To be eligible for insurance under this section a mortgage shall—

["(1) meet the requirements of section 203(b), 203(i), 221(d)(2), or 234(c), except as such requirements are modified by this section;

["(2) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed \$33,000, except that in the case of a mortgage meeting the requirements of section 203(i) or section 221(d)(2) such principal obligation shall not exceed the maximum limits prescribed for such section;

["(3) have a principal obligation not in excess of the sum of (i) 97 per centum of \$15,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, (ii) 90 per centum of such value in excess of \$15,000 but not in excess of \$25,000, and (iii) 85 per centum of such value in excess of \$25,000; and

["(4) be executed by a mortgagor who at the time of application for insurance is certified as a 'serviceman' and who at the time of insurance is the owner of the property and either occupies the property or certifies that his failure to do so is the result of his military assignment, or, in the case of the United States Coast Guard or the United States National Oceanic and Atmospheric Administration, other assignment.

["(c) The Secretary may prescribe the manner in which a mortgage may be accepted for insurance under this section. Premiums fixed by the Secretary under section 203 with respect to, or payable during, the period of ownership by a serviceman of the property involved shall not be payable by the mortgage but shall be paid not less frequently than once each year, upon request of the Secretary to the Secretary of Defense, the Secretary of Transportation, or the Secretary of Commerce, as the case may be, from the respective appropriations available for pay and allowances of persons eligible for mortgage insurance under this section. As used herein, 'the period of ownership by a serviceman' means the period, for which premiums are fixed, prior to the date that the Secretary of Defense (or any officer or employee or other person designated by him), the Secretary of Transportation (or any officer or employee or other

person designated by him), or the Secretary of Commerce (or any officer or employee or other person designated by him), as the case may be, furnishes the Secretary with a certification that such ownership (as defined by the Secretary), has terminated.

["(d) Any mortgage under a mortgage insured under this section is entitled to the benefits of the insurance as provided in section 204(a) with respect to mortgages insured under section 203.

["(e) The provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 204 shall apply to mortgages insured under this section, except that as applied to those mortgages (1) all references to the Fund, or Mutual Mortgage Insurance Fund, shall refer to the General Insurance Fund, and (2) all references to section 203 shall refer to this section.

["(f) The Secretary is authorized to transfer to this section the insurance on any mortgage covering a single-family dwelling or a one-family unit in a condominium project insured under this Act, if the mortgage indebtedness thereof has been assumed by a serviceman who at the time of assumption is the owner of the property and either occupies the property or certifies that his failure to do so is the result of his military assignment, or, in the case of the United States Coast Guard or the United States National Oceanic and Atmospheric Administration, other assignment.

["(g) Where a serviceman dies while on active duty in the armed forces of the United States or in the United States Coast Guard or in the United States National Oceanic and Atmospheric Administration, leaving a surviving widow as owner of the property, the period of ownership by the serviceman (within the meaning of subsection (c) of this section) shall extend for two years beyond the date of the serviceman's death or until the date the widow disposes of the property, whichever date occurs first. The Secretary of Defense or the Secretary of Transportation, or the Secretary of Commerce, as the case may be, shall notify such widow promptly following the serviceman's death of the additional costs to be borne by the mortgagor following termination of the two-year period."

[SEC. 8. All provisions of law inconsistent with this Act are hereby repealed.]

## SECTION 16 OF THE ACT OF MAY 22, 1917

**CHAP. 20.**—An Act To temporarily increase the commissioned and warrant and enlisted strength of the Navy and Marine Corps, and for other purposes.

[SEC. 16. The President is authorized, whenever in his judgment a sufficient national emergency exists, to transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and commissioned officers of the Environmental Science Services Administration as he may deem to the best interest of the country, and after such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which transfer is made: *Provided*, That such vessels, equipment, stations, and commissioned officers shall be returned to the Environmental Science Services Administration when such national emergency ceases, in the opinion of the President, and nothing in this section shall be construed as transferring the Environmental Science Services Administration or any of its functions from the Department of Commerce except in time of national emergency and

to the extent herein provided: *Provided further*, That any of the commissioned officers of the Environmental Science Services Administration who may be transferred as provided in this section, shall, while under the jurisdiction of a military department, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention permanently in the military service of the United States is not contemplated by law.

【Nothing in this Act shall reduce the total amount of pay and allowances they were receiving at the time of transfer. Active service of commissioned officers of the Coast and Geodetic Survey shall be deemed to be active military service for the purposes of all laws administered by the Secretary of Veterans Affairs (except the Servicemen's Indemnity Act of 1951) and section 217 of the Social Security Act, and for the purposes of section 210 of the Social Security Act as in effect prior to the Social Security Act Amendments of 1950.

【When serving with the Army, Navy, or Air Force, commissioned officers of the Coast and Geodetic Survey shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade.

【And nothing in this Act shall be construed to affect or alter their rates of pay and allowances when not assigned to military duty as hereinbefore mentioned.

【The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations governing the duties to be performed by the Environmental Science Services Administration in time of war, and for the cooperation of that service with the military departments in time of peace in preparation for its duties in war, which regulations shall not be effective unless approved by each of those Secretaries, and included therein may be rules and regulations for making reports and communications between a military department and the Environmental Science Services Administration.】

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## SECTION 1 OF THE ACT OF JULY 22, 1947

AN ACT To provide basic authority for the performance of certain functions and activities of the Coast and Geodetic Survey, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*【, That the Coast and Geodetic Survey is hereby authorized to provide, for appropriations now or hereafter made available to the Survey, for—

【(a) Transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of commissioned officers who die on active duty to the official residence of record for such officers, or, upon application by their dependents, to such other locations as may be determined by the Director of the Coast and Geodetic Survey or by such person as he may designate.

【(b) Reimbursement, under regulations prescribed by the Secretary, of commissioned officers for food, clothing, medicines, and other supplies furnished by them for the temporary relief of dis-

tressed persons in remote localities and to shipwrecked persons temporarily provided for by them.】

\* \* \* \* \*

### SECTION 11 OF THE ACT OF MAY 18, 1920

**CHAP. 190.**—An Act To increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service.

【SEC. 11. That in lieu of compensation now prescribed by law, commissioned officers of the Coast and Geodetic Survey shall receive the same pay and allowances as now are or hereafter may be prescribed for officers of the Navy with whom they hold relative rank as prescribed in the Act of May 22, 1917, entitled “An Act to temporarily increase the commissioned and warrant and enlisted strength of the Navy and Marine Corps, and for other purposes,” including longevity; and all laws relating to the retirement of commissioned officers of the Navy shall hereafter apply to commissioned officers of the Coast and Geodetic Survey: *Provided*, That hereafter longevity pay for officers in the Army, Navy, Marine Corps, Coast Guard, Public Health Service, and Coast and Geodetic Survey shall be based on the total of all service in any or all of said services.】

### SECTION 636 OF THE FOREIGN ASSISTANCE ACT OF 1961

SEC. 636. PROVISIONS ON USES OF FUNDS.—(a) Appropriations for the purposes of or pursuant to this Act (except for Part II), allocations to any agency of the United States Government, from other appropriations, for functions directly related to the purposes of this Act, and funds made available for other purposes to the agency primarily responsible for administering part I, shall be available for:

(1) \* \* \*

\* \* \* \* \*

【(17) expenses in connection with travel of personnel outside the United States, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel), and transportation of personal effects, household goods, and automobiles of such personnel when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting automobiles to and from a place of storage, and the cost of storing automobiles of such personnel when it is in the public interest or more economical to authorize storage.】

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# SECTION 1406 OF TITLE 10, UNITED STATES CODE

## § 1406. Retired pay base for members who first became members before September 8, 1980: final basic pay

(a) \* \* \*

\* \* \* \* \*

(g) COMMISSIONED CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—In the case of an officer whose retired pay is computed under [section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o)] *section 305 of the National Oceanic and Atmospheric Administration Commissioned Officers Act of 2002*, the retired pay base is the basic pay of the rank with which the officer retired.

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# SECTION 566 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

## SEC. 566. SEPARATION BENEFITS DURING FORCE REDUCTION FOR OFFICERS OF COMMISSIONED CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) \* \* \*

\* \* \* \* \*

(c) TEMPORARY EARLY RETIREMENT AUTHORITY.—Section 4403 (other than subsection (f)) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the commissioned officer corps of the National Oceanic and Atmospheric Administration in the same manner and to the same extent as that section applies to the Department of Defense. The Secretary of Commerce shall implement the provisions of that section with respect to such commissioned officer corps and shall apply the provisions of that section to the provisions of [the Coast and Geodetic Survey Commissioned Officers' Act of 1948] *the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002* relating to the retirement of members of such commissioned officer corps.

\* \* \* \* \*

## COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON RESOURCES,  
*Washington, DC, July 18, 2002.*

Hon. SHERWOOD BOEHLERT,  
*Chairman, Committee on Science,  
Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: On June 26, 2002, the Committee on Resources ordered reported with an amendment H.R. 4883, to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes. In Committees, the text of H.R. 4882, to revise and modernize the provisions of law governing the commissioned officer corps of the National Oceanic and Atmospheric Administration, was added as title II of H.R. 4883. Based on my discussions



with the Parliamentarian, the Committee on Science would have some jurisdictional interest in title II of the reported bill.

Because of the very few legislative days remaining in the 107th Congress, I ask that the Committee on Science not seek a sequential referral of H.R. 4883, as amended. By foregoing this referral, the Committee on Science does not waive any subject matter jurisdiction over the reported text of title II nor should this action be considered as precedent for future actions. In addition, should a conference on this bill or a similar Senate bill become necessary, I agree to support your request for conferees on those matters within the Committee on Science's jurisdiction. Finally, I would be pleased to include my letter and your response in the bill report on H.R. 4883.

Thank you for your continued cooperation in matters under our shared jurisdiction and I look forward to seeing H.R. 4883 on the Floor soon.

Sincerely,

JAMES V. HANSEN,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON SCIENCE,  
*Washington, DC, July 19, 2002.*

Hon. JAMES V. HANSEN,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of July 18, 2002 concerning H.R. 4883, a bill to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes. As you state in your letter, certain of the provisions of the bill fall within the jurisdiction of the Committee on Science. However, realizing your desire to bring the bill to the floor in an expeditious manner the Committee on Science will not seek a referral on the bill.

By not seeking a referral the Committee on Science will in no way prejudice any of its jurisdictional prerogatives. Further, it is my understanding you will support our request for conferees should a conference between the House and the Senate be called on this or similar legislation. Finally, our exchange or correspondence will be entered into the report on H.R. 4883.

Thank you for your cooperation in this matter.

Sincerely,

SHERWOOD BOEHLERT,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON VETERANS' AFFAIRS,  
*Washington, DC, July 25, 2002.*

Hon. JAMES V. HANSEN,  
*Chairman, Committee on Resources,  
Longworth House Office Building, Washington, DC.*

DEAR MR. HANSEN: On June 27, 2002, I sent a letter to the Speaker with a copy to you regarding jurisdictional concerns of the Committee on Veterans' Affairs about section 262 of H.R. 4883 (let-

ter enclosed). The Committee on Veterans' Affairs would strongly object to any changes to the Soldiers' and Sailors' Civil Relief Act (SSCRA) or to laws on veterans' benefits being made by other committees. My understanding is that the intent of the Committee on Resources is not to make any changes to current law, but to restate current law with respect to coverage of commissioned officers of the National Atmospheric and Oceanic Administration by the SSCRA and with respect to veterans' benefits for those officers. I also understand that the Committee on Resources acknowledges the exclusive jurisdiction of the Committee on Veterans' Affairs over SSCRA and veterans' benefits under House Rule X.

Upon confirmation of these understandings, the Committee would not object to consideration of H.R. 4883 without a sequential referral for section 262.

Sincerely,

CHRISTOPHER H. SMITH,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON RESOURCES  
*Washington, DC, July 25, 2002.*

Hon. CHRISTOPHER H. SMITH,  
*Chairman, Committee on Veterans' Affairs,  
Cannon House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The understandings stated in your letter of July 25, 2002, are correct. The Committee on Resources intends for section 262 of H.R. 4883 only to restate the current provision of title 33, United States Code, that includes commissioned officers of the National Oceanic and Atmospheric Administration under the coverage of the Soldiers' and Sailors' Civil Relief Act (SSCRA) and laws administered by the Secretary of Veterans Affairs. Section 262 would make no change to SSCRA or veteran' benefits.

The Committee on Resources recognizes that under Rule X of the rules of the House of Representatives the Committee on Veterans' Affairs has exclusive jurisdiction over SSCRA and veterans' benefits.

Thank you for agreeing to help expedite consideration of H.R. 4883 and for the outstanding work of Kingston Smith of your staff. I look forward to working with you for the remainder of the 107th Congress on issues of mutual interest to our two Committees.

Sincerely,

JAMES V. HANSEN,  
*Chairman.*