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MARITIME ADMINISTRATION AUTHORIZA-
TION AND ENHANCEMENT ACT FOR FISCAL
YEAR 2017

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2829



DECEMBER 9, 2016.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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MARITIME ADMINISTRATION AUTHORIZATION AND
ENHANCEMENT ACT FOR FISCAL YEAR 2017

DECEMBER 9, 2016.—Ordered to be printed

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

R E P O R T

[To accompany S. 2829]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2829), to amend and enhance certain maritime programs of the Department of Transportation, and for other purposes, having considered the same, reports favorably thereon with an amendment (in nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of the Maritime Administration Authorization and Enhancement Act for Fiscal Year 2017 is to authorize appropriations for certain maritime programs of the Department of Transportation for fiscal year (FY) 2017, and for other purposes. The bill would enhance sexual harassment and assault prevention and response policies at the United States Merchant Marine Academy (USMMA), provide more flexibility to the Maritime Administration (MARAD) to effectively manage maritime resources, and improve human resource management policies within MARAD.

The purpose of the bill is also to authorize the Coast Guard to enter into contracts for advanced procurement for a polar icebreaker. It also would improve planning and evaluation of the icebreaker fleet. It would also make clarifying and technical corrections to United States Coast Guard authorities.

In addition, the purpose of the bill is to reduce the incidence of sexual harassment and assault at the National Oceanic and Atmospheric Administration (NOAA). It would also reauthorize the NOAA Commissioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.), reauthorize the Hydrographic Services Improvements Act of 1998 (33 U.S.C. 892 et seq.), and make a number of improvements, clarifications, and refinements to the statutory authorities of NOAA.

Finally, the purpose of the bill is to provide for the establishment of nationally-uniform and environmentally sound standards for the regulation of ballast water discharges and other discharges that are incidental to the normal operation of vessels.

BACKGROUND AND NEEDS

MARAD was established in 1950 and its role today is to foster, promote, and develop the merchant marine industry of the United States. MARAD, an operating administration within the Department of Transportation (DOT), is tasked with the following:

- Operating the Maritime Security Program (MSP), which promotes and monitors the use of U.S.-flag vessels in the movement of cargo on international waters.
- Promoting port infrastructure development and congestion mitigation in the transportation system through education and coordination.
- Administering programs, including the Maritime Guaranteed Loan, the Small Shipyard Grant Program, and the Deepwater Port Licensing Program for offshore liquefied natural gas and oil receiving port facilities.
- Managing a Department of Defense (DOD) funded Ready Reserve Force to help sustain United States military operations at sea in times of emergency.
- Managing disposal of the National Defense Reserve Fleet (NDRF) when ships are no longer deemed useful for defense or missions.
- Informing the Department of Homeland Security on the availability of coastwise-qualified vessels.

USMMA and State Maritime Academies

The USMMA, organized under and overseen by MARAD, is a Federal service academy that offers baccalaureate degrees specializing in engineering and maritime transportation. MARAD also supports six State Maritime Academies located in California, Maine, Massachusetts, Michigan, Texas, and New York and provides to them nearly \$30 million in funding annually.

Sexual Harassment and Assault Policy

The Duncan Hunter National Defense Authorization Act for FY 2009 included legislation that required the Secretary of Transportation and the USMMA to implement policies that would address sexual assault and harassment at the USMMA.¹ An October 2014 DOT Inspector General (IG) report noted deficiencies in the USMMA's effort.² All nine of the report's recommendations have

¹P.L. 110-417.

²Better Program Management and Oversight are Required for USMMA's Efforts to Address Sexual Assault and Harassment. U.S. Department of Transportation, 2014, at <https://>

been resolved and closed, but continued attention is needed to ensure that the USMMA's sexual assault and harassment prevention action plan is fully implemented. This bill includes training and education provisions, victim advocacy programs, and investigatory requirements that align the USMMA's sexual assault and response prevention efforts with those of the DOD, Coast Guard, and United States military service academies.³

Department of Transportation Inspector General Report

In 2015, the DOT IG reviewed MARAD's internal controls and released a report in December on the agency's management of planning, performance measurement, and risk management strategies, organizational structure, and workforce development. The report revealed weaknesses in MARAD's oversight of its own program implementation, monitoring, and oversight.⁴ This bill addresses concerns highlighted in the DOT IG report by strengthening certain program controls and improving workforce development and oversight policies.

Coast Guard Icebreaker Policy

The Coast Guard was established on January 28, 1915, through the consolidation of the Revenue Cutter Service (established in 1790) and the Lifesaving Service (established in 1848). The Coast Guard later assumed the duties of three other agencies: the Lighthouse Service (established 1789), the Steamboat Inspection Service (established in 1838), and the Bureau of Navigation (established in 1884).

Under section 2 of title 14, United States Code, the Coast Guard has primary responsibility to enforce or assist in the enforcement of all applicable Federal laws in, under, and over the high seas and waters subject to the jurisdiction of the United States; to ensure safety of life and property at sea; to protect the marine environment; to carry out icebreaking activities; and to ensure the safety and security of vessels, ports, waterways, and related facilities.

The United States polar icebreaker operations support 9 of the Coast Guard's 11 statutory missions. The roles of the icebreakers include: conducting and supporting scientific research in the Arctic and Antarctic; defending U.S. sovereignty and interests in Polar Regions; and monitoring sea traffic in the Arctic, specifically ships bound for the United States.⁵

The Coast Guard currently has three polar icebreakers, but only two of the vessels are operational. The operational fleet consists of one heavy polar icebreaker, Polar Star, and one medium icebreaker, Healy. The Polar Star entered service in 1976 and is well beyond its 30-year service life, but has been refurbished and reentered service in December 2012 for an intended period of 7 to 10 years—a period that will end between December 2019 and Decem-

www.oig.dot.gov/sites/default/files/USMMA%20Sexual%20Assault%20and%20Sexual%20Harassment%20Audit%20Report%205E10-23-14.pdf.

³P.L. 112–81, 125 Stat. 1432; P.L. 109–364, 120 Stat. 2205; P.L. 113–66, 127 Stat. 983; P.L. 111–83, 124 Stat. 4432.

⁴U.S. Department of Transportation, *Weaknesses In MARAD's Management Controls for Risk Mitigation, Workforce Development, and Program Implementation Hinder the Agency's Ability to Meet Its Mission*, 2015, at <https://www.oig.dot.gov/sites/default/files/MARAD%20Management%20Controls%20Final%20Report%2012-10-15.pdf>.

⁵Congressional Research Service Report RL34391, *Coast Guard Polar Icebreaker Modernization: Background and Issues for Congress*, by Ronald O'Rourke.

ber 2022. The third icebreaker, the Polar Sea, is a sister ship to the Polar Star and also commissioned over 30 years ago. In 2010 the Coast Guard announced that the Polar Sea had suffered an engine casualty and the ship was placed in an inactive status in October of 2011.⁶

The current requirements and future projections based on cutter demand modeling indicates that the Coast Guard will need to expand its icebreaking capacity. To adequately meet demands in the high latitudes a fleet of six icebreakers (three heavy and three medium) may be necessary to respond to the increase in activity and vessel traffic in the Arctic region. These needs were based on an assessment of the Coast Guard's Polar responsibilities, and the activities it may be required to perform over the next 30 years.⁷

Vessel Incidental Discharge Act

Senate Report 114–96 includes the background and needs for title VII of this bill, which is S. 373, the Vessel Incidental Discharge Act, reported by the Committee on July 29, 2015.

NOAA Sexual Harassment and Assault Prevention Act

Senate Report 114–384 includes the background and needs for title VIII of this bill, which is S. 2206, the National Oceanic and Atmospheric Administration Sexual Harassment and Assault Prevention Act, reported by the Committee on November 28, 2016.

SUMMARY OF PROVISIONS

The Maritime Administration Authorization and Enhancement Act for Fiscal Year 2017 would authorize appropriations for certain maritime programs at the DOT for FY 2017. It would ensure incoming midshipmen receive training on sexual assault prevention and response as part of their orientation program, and refresher training annually thereafter. It would require the USMMA to designate and train volunteer sexual assault victim advocates to help victims identify resources, understand their rights, and have access to assistance in navigating investigative, health, and recovery processes. Further, it would require the USMMA to employ a full-time sexual assault response coordinator, at or near campuses, to ensure a strong management structure for training and support activities. It also would guarantee access to a 24-hour hotline through which a sexual assault victim at the USMMA can receive support services.

The bill would allow the DOD and DOT to extend, on a limited basis when in the national interest, the age restrictions for a vessel in the maritime security program, helping ensure access to the most militarily-useful U.S.-flag vessels during times of national emergency. It would establish a standardized training database, enhance workforce plans, and align training policies at MARAD headquarters and field offices. It would require fleet managers to

⁶ Ibid.

⁷ *Testimony of Coast Guard Director of Homeland Security and Justice Stephen L. Caldwell, Subcommittee on Coast Guard and Maritime Transportation, The House Committee on Transportation and Infrastructure, Observations on Arctic Requirements, Icebreakers, and Coordination with Stakeholders*, hearings, 112th Congress, 1st sess., December 1, 2011, H.Hrg. 112–63 (Washington, DC:GPO, 2012).

receive training on DOT's drug and alcohol policy to increase safety for employees working on or around vessels.

The bill would require students at State Maritime Academies that receive funding from DOT to meet medical and physical standards necessary to serve in the merchant marine, ensuring Federal support helps build our Nation's maritime workforce. It would provide DOT with 10 additional discretionary appointments at the USMMA for midshipmen with unique characteristics, including prior military service, exceptional science and math accomplishment, and unrepresented geographic or demographic characteristics, aiding in the recruitment of a diverse and accomplished student body.

The bill would authorize the Coast Guard to enter into contracts for advanced procurement for a polar icebreaker. It would require the Coast Guard to develop a heavy icebreaker recapitalization plan. It also would require the Secretary of Homeland Security, in consultation with the Secretary of the Navy, to submit an icebreaker recapitalization plan that meets the 2013 Department of Homeland Security Mission Need Statement and requires the Government Accountability Office to study the state of the Federal and on international icebreaker funding models.

Senate Report 114–96 includes the summary of provisions for title VII of this bill, which is S. 373, the Vessel Incidental Discharge Act, reported by the Committee on July 29, 2015.

Senate Report 114–384 includes the summary of provisions for title VIII of this bill, which is S. 2206, the National Oceanic and Atmospheric Administration Sexual Harassment and Assault Prevention Act, reported by the Committee on November 28, 2016.

LEGISLATIVE HISTORY

On April 20, 2016, Senator Fischer introduced S. 2829, the Maritime Administration Authorization and Enhancement Act for Fiscal Year 2017, with Senator Booker as an original cosponsor.

On April 27, 2016, the Committee met in open Executive Session and, by a voice vote, ordered S. 2829 to be reported favorably with an amendment in the nature of a substitute. Amendments were offered by Senators Blumenthal, Cantwell, Nelson, Sullivan, Rubio, and Wicker.

The substitute amendment from Senator Fischer would create a maritime workforce working group and require a report by the Secretary of the department in which the Coast Guard is operating on use of the Pribilof Islands. This amendment was accepted by voice vote.

Three first degree amendments from Senator Blumenthal would require: cadets of the USMMA to receive training on sexual harassment and sexual assault prevention during their first week at the USMMA; cadets at the USMMA to receive sexual harassment and sexual assault prevention training biennially; and victim advocates at the USMMA to maintain confidentiality of information related to sexual assault. These amendments were accepted by voice vote.

A first degree amendment from Senator Cantwell would authorize the Coast Guard to enter into contracts for advance procurement activities associated with heavy icebreaker design and construction activities. This amendment was accepted by voice vote.

A first degree amendment from Senator Nelson would establish a task force to analyze the impact of extreme weather events on the maritime transportation system. A second degree amendment from Senator Sullivan to the amendment from Senator Nelson would add mariner litigation reform provisions. These amendments were accepted by voice vote, with Senators Blumenthal, Udall, McCaskill, Markey, Booker, Peters, Schatz, Klobuchar, and Cantwell recorded against the amendment from Senator Sullivan.

A first degree amendment from Senator Rubio would include S. 373, the Vessel Incidental Discharge Act. This amendment was accepted by voice vote, with Senators Blumenthal, Booker, Udall, Markey, and Cantwell recorded as against the amendment.

A first degree amendment from Senator Sullivan would include S. 2206, the National Oceanic and Atmospheric Administration Sexual Harassment and Assault Prevention Act. This amendment was accepted by voice vote.

A first degree amendment, as modified, from Senator Wicker would extend a waiver pertaining to floating dry docks. This amendment was accepted by voice vote.

A first degree amendment from Senator Wicker would set reporting requirements for the vessel disposal program of MARAD. This amendment was accepted by voice vote.

Hearings

On March 8, 2016, the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security of the Committee on Commerce, Science, and Transportation of the Senate held an oversight hearing to examine how Federal policy and programs can enhance the performance of the maritime transportation system.

On April 20, 2016, the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security of the Committee on Commerce, Science, and Transportation of the Senate held an oversight hearing to explore current trends, opportunities, and challenges facing the U.S. maritime transportation system.

ESTIMATED COSTS

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

S. 2829—Maritime Administration Authorization and Enhancement Act for Fiscal Year 2017

Summary: S. 2829 would reauthorize programs administered by the National Oceanic and Atmospheric Administration (NOAA) and the Maritime Administration (MARAD). The act would require those agencies to establish certain personnel-related policies, particularly to prevent sexual harassment and assault within those agencies and related institutions, and make a variety of other changes to federal policies and regulations related to maritime programs and related activities. Assuming appropriation of the authorized and estimated amounts, CBO estimates that implementing S. 2829 would cost \$944 million over the 2017–2021 period.

Enacting the legislation would affect direct spending and revenues; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any such effects would be insignificant in any given year. CBO estimates that enacting S. 2829 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 2829 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the costs of those mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million in 2016, respectively, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 2829 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment) and 400 (transportation).

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
INCREASES IN SPENDING SUBJECT TO APPROPRIATION ^a						
NOAA Hydrographic Activities						
Authorization Level	183	183	183	183	0	732
Estimated Outlays	119	156	178	183	64	700
NOAA Personnel Policies						
Estimated Authorization Level	6	6	6	6	6	30
Estimated Outlays	4	6	6	6	6	28
MARAD Activities						
Authorization Level	216	0	0	0	0	216
Estimated Outlays	183	22	11	0	0	216
Total Increases						
Estimated Authorization Level	405	189	189	189	6	978
Estimated Outlays	306	184	195	189	70	944

Note: NOAA = National Oceanic and Atmospheric Administration; MARAD = Maritime Administration.

^a Enacting S. 2829 also would have an insignificant effect on direct spending and revenues.

Basis of estimate: For this estimate CBO assumes that S. 2829 will be enacted near the start of fiscal year 2017 and that appropriations will be provided each fiscal year. Estimates of outlays are based on historical spending patterns for NOAA and MARAD.

Spending subject to appropriation

CBO estimates that S. 2829 would authorize appropriations totaling \$978 million over the 2017–2021 period. That amount includes \$762 million for programs administered by NOAA and \$216 million for programs administered by MARAD. CBO estimates that outlays would total \$306 million in 2017 and \$944 million over the next five years.

Hydrographic Activities. Title III would authorize the appropriation of \$183 million a year over the 2017–2021 period to carry out hydrographic activities, including nautical mapping and charting, collecting hydrographic data, maintaining a geodetic reference system, and measuring tides and currents. In 2015, NOAA allocated \$183 million to carry out similar activities. Assuming appropriation of the authorized amounts, CBO estimates that implementing title III would cost \$700 million over the 2017–2021 period.

Personnel Policies. Implementing the personnel policies in the act would increase discretionary costs by almost \$30 million over the 2017–2021 period, CBO estimates.

Sexual Harassment Policy. Title I would require NOAA to develop a policy to prevent and respond to sexual harassment within the agency, and would require NOAA to designate people in 11 locations throughout the country to handle matters related to equal employment opportunities and sexual harassment. The act also would require the agency to place victims’ advocates at each of those locations. CBO expects that the agency would fill up to 44 positions through a combination of training existing staff and hiring new employees. Based on information from NOAA about the level of expertise required and incorporating the related overhead costs, CBO estimates that each new hire for this work would cost about \$160,000 a year. Finally, the act would require NOAA to staff a 24-hour hotline for victims of sexual assault, which CBO expects would require eight new employees. Based on information provided by NOAA regarding salary and training costs, CBO estimates that implementing title I would cost about \$25 million over the 2017–2021 period.

Recruiting. Title II would authorize NOAA to spend appropriated funds to recruit members for the commissioned officer corps. On average, the corps admits about 30 new members each year. Based on the cost of recruiting for the other uniformed services, CBO estimates that implementing this provision would cost less than \$500,000 a year.

Title II also would authorize NOAA to pay certain expenses related to higher education for people serving in the commissioned officer corps or those who commit to serve in the corps after completing a college degree. Based on information provided by the agency about the number of officers who would receive such assistance, CBO estimates that implementing this provision would cost less than \$200,000 a year.

MARAD Activities. MARAD is primarily responsible for overseeing the nation’s merchant marine, comprising civilian mariners and the fleet of U.S. vessels engaged primarily in waterborne commerce. S. 2829 would authorize appropriations totaling \$216 million in 2017 for certain activities carried out by MARAD. (The agency received \$183 million for such activities in 2016.) That authorized amount includes:

- \$100 million for the U.S. Merchant Marine Academy, which trains officers for the merchant marine, branches of the military, and the transportation industry;
- \$57 million for operations and program support provided by MARAD’s headquarters;
- \$30 million to provide financial and other support to state maritime academies;
- \$20 million for the cost of disposing of obsolete vessels in the National Defense Reserve Fleet;
- \$6 million to analyze the need for a multi-mission vessel to support training needs of state maritime academies and to assist in responding to disasters; and
- \$3 million for the costs of administering loan guarantees to construct or modernize U.S. vessels or shipyards.

Based on historical spending patterns for MARAD's activities, CBO estimates that the resulting outlays would total \$183 million in 2017 and \$216 million over the 2017–2019 period.

Direct spending and revenues

S. 2829 also contains provisions that would affect direct spending and revenues. CBO estimates that enacting those provisions would, in total, have no significant net effect on direct spending or revenues.

- Section 502 would modify the timing and accounting methodology for reimbursements made by the U.S. Coast Guard to the Department of Defense (DoD) for health care provided to Coast Guard retirees (and current members) at DoD facilities. Because spending for the health care of retirees of the Coast Guard originates from mandatory appropriations, changes in reimbursements could affect direct spending. However, on the basis of information provided by the Coast Guard and DoD, CBO estimates the net effects of such changes would be insignificant in any year.

- Section 724 would establish service requirements for individuals enlisting in NOAA's commissioned officer corps and require individuals who fail to meet those requirements to repay NOAA an amount equal to the costs incurred to train that person. Based on information from NOAA, we estimate that any repayments from officers who fail to meet service requirements under the act would be insignificant (such payments would be offsetting receipts, which are credits against direct spending).

- Section 739 would establish criminal fines that could be charged to individuals who wear the uniform of NOAA's commissioned officer corps without proper authorization. CBO estimates that any increased criminal penalties under S. 2829 (which would be recorded as revenues) would be insignificant due to the small number of likely cases; such amounts would be fully offset by a corresponding increase in direct spending, resulting in a negligible net effect on the deficit.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that enacting S. 2829 would have an insignificant effect on both direct spending and revenues.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 2829 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: S. 2829 would impose intergovernmental and private-sector mandates as defined in UMRA. CBO estimates that the costs of those mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million in 2016, respectively, adjusted annually for inflation).

Mandates that apply to public and private entities

The act could increase the costs of complying with existing mandates by making personnel in the NOAA commissioned officer corps eligible for protections under the Uniformed Services Employment and Reemployment Rights Act (USERRA). Protections under that

act require public and private employers to grant various allowances to members of the uniformed services. Because the increase in the number of servicemembers covered by USERRA would be so small (fewer than 400), CBO estimates that the incremental cost of compliance also would be small.

Mandates that apply to public entities only

The act would exempt NOAA officers from an obligation to serve on juries if the service unreasonably conflicts with official duties or would adversely affect the readiness of a unit, command, or activity. By expanding this exemption to NOAA officers, the legislation would preempt some state and local laws governing jury duty; however, that preemption would impose no duty on state or local governments that would result in additional spending or a loss of revenues.

Mandates that apply to private entities only

The act would prohibit individuals from wearing the uniform of the NOAA commission officer corps without authorization. CBO expects that the prohibition would affect few individuals. Consequently, the cost of the mandate would be negligible.

Previous CBO estimate: On June 29, 2016, CBO transmitted a cost estimate for S. 2206, the National Oceanic and Atmospheric Administration Sexual Harassment and Assault Prevention Act, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on November 18, 2015. S. 2206 is similar to title VIII of S. 2829, and the CBO's estimates of the budgetary effects of those provisions are the same.

Estimate prepared by: Federal costs: MARAD—Megan Carroll, NOAA—Jeff LaFave, Military Health System—Matthew Schmit; impact on state, local, and tribal governments: Jon Sperl; impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 2829 would affect the nearly 1,000 cadets at the USMMA through enhanced training requirements with respect to the USMMA's sexual harassment and assault prevention and response program. S. 2829 also would affect approximately 7,000 cadets located at the 6 State Maritime Academies by requiring them to meet certain physical fitness standards throughout their enrollments at State Maritime Academies. Senate Report 114–96 includes the number of persons covered by title VII of this bill, which is S. 373, the Vessel Incidental Discharge Act, reported by the Committee on July 29, 2015. Senate Report 114–384 includes the number of persons covered by title VIII of this bill, which is S. 2206, the National Oceanic and Atmospheric Administration

Sexual Harassment and Assault Prevention Act, reported by the Committee on November 28, 2016.

ECONOMIC IMPACT

The bill would authorize appropriations of \$215,594,000 for certain maritime programs of the DOT for FY 2017. This represents an increase over currently appropriated funding levels. Senate Report 114–96 includes the economic impact covered by title VII of this bill, which is S. 373, the Vessel Incidental Discharge Act, reported by the Committee on July 29, 2015. Senate Report 114–384 includes the economic impact covered by title VIII of this bill, which is S. 2206, the National Oceanic and Atmospheric Administration Sexual Harassment and Assault Prevention Act, reported by the Committee on November 28, 2016.

PRIVACY

The bill will not impact the personal privacy of individuals.

PAPERWORK

The reported bill will not increase paperwork requirements for the private sector. The bill will increase the number of reports from the Federal Government.

CONGRESSIONALLY DIRECTED SPENDING

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

SECTION-BY-SECTION ANALYSIS

Title I—Maritime Administration Authorization

Sec. 101. Authorization of the Maritime Administration.

This section would authorize appropriations for FY 2017 to DOT for programs of MARAD, including: the USMMA; State Maritime Academies; MARAD operations and programs; the ship disposal program; and the maritime guaranteed loan program. The maritime security program would remain authorized at the levels codified in section 53111 of title 46, United States Code.

Sec. 102. Maritime Administration authorization request.

This section would amend section 109 of title 49, United States Code, to require MARAD – not later than 30 days after the submission of the President’s budget – to submit an authorization request to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Title II—Prevention of sexual harassment and assault at the United States Marine Academy

Sec. 201. Actions to address sexual harassment and sexual assault at the United States Merchant Marine Academy.

This section would amend chapter 513 of title 46, United States Code, to codify the existing requirement for the USMMA to prescribe a comprehensive policy on sexual harassment and sexual assault applicable to the cadets and other personnel of the USMMA, and it would add a requirement that the policy be available to all cadets and employees of the USMMA and the public.

The amendment made by this section would add a requirement that ensures the USMMA development program includes a section on the prevention of and response to sexual harassment and sexual assault at the USMMA. The amendment made by this section also would require that all USMMA cadets receive training – not later than 7 days after arrival at the Academy and biannually thereafter – on the prevention of and response to sexual harassment and sexual assault.

This section would codify the existing requirement for the Secretary of Transportation, in cooperation with the Superintendent of the USMMA, to conduct an annual assessment and biennial survey to determine the effectiveness of USMMA policies, procedures, and training on sexual harassment and sexual assault, and it would add a requirement for DOT to conduct a focus group for years when the survey is not required. This section also would codify the existing requirement for the Secretary to submit to Congress an annual report on sexual harassment and sexual assault, and it would require the Secretary to include in the report the results of the required survey or focus group.

Sec. 202. Sexual assault response coordinators and sexual assault victim advocates.

This section would amend chapter 513 of title 46, United States Code, to require the USMMA to employ or contract with at least one full-time sexual response coordinator who shall reside on or near the USMMA.

The new section 51319 of title 46, United States Code, would establish the framework for volunteer sexual assault victim advocates, and it would require the USMMA to designate at least one permanent employee as a sexual assault victim advocate. The amendment made by this section would require sexual assault victim advocates to receive training in matters relating to sexual assault and the USMMA comprehensive policy. It would set the primary duties of a sexual assault victim advocate, including identifying resources, informing victims of rights, and connecting with or serving as a companion in navigating investigative, medical, mental and emotional health, and recovery processes relating to sexual assault.

The amendment made by this section would establish a 24-hour hotline through which the victim of a sexual assault can receive victim support services. It also would provide that any information disclosed by a victim to a victim advocate shall be treated as confidential.

Sec. 203. Report from the Department of Transportation Inspector General.

This section would require the DOT IG to submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes the effectiveness of the sexual harassment and sexual assault prevention and response program at the USMMA.

Sec. 204. Sexual assault prevention and response working group.

This section would require the Maritime Administrator to convene a working group to examine methods to improve the prevention of, and response to, any sexual harassment or sexual assault that occurs during a cadet's Sea Year experience with the USMMA. This section also would set the membership requirements for the working group.

This section would set the responsibilities of the working group, including the requirement to assess a potential program or policy, applicable to all participants of the maritime security program, to improve the prevention of or response to sexual harassment and sexual assault incidents. This section would require the working group to submit a report containing recommendations and other information to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Title III—Maritime administration enhancement

Sec. 301. Status of National Defense Reserve Fleet vessels.

This section would amend section 4405 of title 50, United States Code, to clarify that vessels in the NDRF are considered public vessels of the United States. The amendment made by this section also would clarify that a vessel in the NDRF remains subject to the rights and responsibilities of a vessel under admiralty law until it is delivered to a dismantling facility or is otherwise disposed.

Sec. 302. Port infrastructure development.

This section would amend section 50302(c)(4) of title 46, United States Code, to allow the Maritime Administrator to use not more than 3 percent of port infrastructure development program funds for administrative expenses of the program.

Sec. 303. Use of State academy training vessels.

This section would amend section 51504(g) of title 46, United States Code, to allow the Secretary of Transportation, after consulting with the affected State Maritime Academies, to implement a program requiring a State maritime academy to share its training vessel with another State maritime academy, under certain conditions. For example, if a State maritime academy training vessel is being used during a humanitarian assistance or disaster response activity, the Secretary may require another State maritime academy to share its vessel.

Sec. 304. State maritime academy physical standards and reporting.

This section would amend section 51506 of title 46, United States Code, to require any individual enrolled at a State maritime academy in a merchant marine officer program to pass an examination that demonstrates that such individual meets the medical and physical requirements required to obtain a mariner's license or merchant mariner documentation to ensure the individual is of sound health and has no physical limitations.

The amendment made by this section also would require the individual to meet those standards throughout enrollment at a State maritime academy. This section would set transfer and disenrollment requirements and allow the Secretary to grant waivers.

Sec. 305. Authority to extend certain age restrictions relating to vessels participating in the maritime security fleet.

This section would amend section 53102 of title 46, United States Code, to allow the Secretary of Defense, in conjunction with the Secretary of Transportation, to extend the maximum age restrictions for a participating fleet vessel in the maritime security program for up to 5 years if the Secretaries jointly determine that such extension is in the national interest. This section also would amend section 53106(c)(3) of title 46, United States Code, to repeal the special age limitation of 30 years for a lighter aboard ship vessel in the maritime security program.

Sec. 306. Appointments.

This section would amend section 51303 of title 46, United States Code, to increase from 40 to 50 the number of potential appointments to the USMMA for individuals the Secretary of Transportation considers to be of special value. The Secretary considers 20 factors for special value including: prior military experience; whether the individual is the first in their family to attend college; exceptional science or math accomplishment; whether the individual comes from a historically underrepresented group; fluency in a foreign language; and exceptional sailing or athletic experience.

This section also would require the Superintendent of the USMMA to post on the USMMA public website a summary profile of each class.

Sec. 307. High-speed craft classification services.

This section would allow the Secretary of the Navy to select, under certain conditions, a classification society recognized and authorized by the Secretary to provide a classification for high-speed craft.

Sec. 308. Maritime workforce working group.

This section would require the Secretary of Transportation to convene a working group to examine and assess the size of the pool of citizen mariners necessary to support the United States Flag Fleet, especially in times of emergency. This section also sets the membership requirements of the working group, and requires it to assess the accessibility and value of the Coast Guard's merchant mariner licensing documentation system in supporting the effort to

assess the pool of citizen mariners, and make recommendations to enhance the availability and quality of interagency data for use by MARAD in evaluating the pool of citizen mariners.

Sec. 309. Vessel disposal program.

This section would require the Maritime Administrator to submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on: the amount and use of funds credited to or distributed from MARAD's Vessel Operations Revolving Fund and any other account attributable to MARAD's vessel disposal program; all National Maritime Heritage Grants Program applications submitted during a given FY and a summary of those applications that were approved; and a detailed description of each project funded under the National Maritime Heritage Grants Program during the prior FY.

This section also would require the Maritime Administrator to assess MARAD's vessel disposal program and develop a more comprehensive understanding of the world of Federal vessels subject to MARAD's disposal program, including its plans to serve as a disposal agent for those vessels.

Sec. 310. Maritime extreme weather task force.

This section would require the Secretary of Transportation to create an extreme weather task force within 15 days of enactment that will analyze the impact of extreme weather events on the maritime environment. Further, the task force would be required to report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on: the availability of weather prediction, monitoring, and maritime vessel routing technology resources; industry best practices that relate to the response or prevention of marine casualties that result from extreme weather events; recommendations for improving maritime response operations during extreme weather events; and recommendations on regulatory actions that could be implemented to improve maritime response operations during extreme weather events.

Sec. 311. Penalty wages.

Current law provides that if a vessel owner does not pay a seaman what the seaman is owed under the seaman's employment contract without sufficient cause, the vessel owner must pay the seaman two days wages for each day the owner does not pay the seaman the contractual amount. In the case of a class action suit brought by seamen who served on cruise ships, the total amount of the penalty is limited to 10 times the amount of wages owed. This section would amend sections 10313(g) and 10504(c) of title 46, United States Code, to cap the penalty amount at 10 times the amount of wages owed for any seaman serving on a cruise ship, regardless of whether the relief is sought in a class action.

Sec. 312. Recourse for noncitizens.

This section would amend section 30104 of title 46, United States Code, to clarify that a foreign citizen mariner may file a personal injury lawsuit in a U.S. court under four circumstances: (1) if the

accident occurred in U.S. waters; (2) if the accident occurred aboard a U.S. flagged vessel; (3) no matter where the accident occurred, if the claimant was a permanent resident alien of the United States at the time of the accident; or (4) no matter where the accident occurred, if the claimant does not have a right to bring suit in the claimant's country of residence or the flag state of the vessel from which the claim arose.

Sec. 313. Floating dry docks.

Current law specifies that certain requirements for vessels transporting merchandise do not apply to a floating dry dock if: (1) the movement is within 5 nautical miles of the shipyard or affiliate that owns and operates the floating dry dock; (2) it is being used to launch or raise a vessel in connection with the construction, maintenance, or repair of that vessel; (3) it is owned and operated by a U.S. shipyard that meets specified criteria or an affiliate of such shipyard; and (4) it was owned or contracted for purchase by the shipyard prior to December 19, 2014. This section would amend the date condition under section 55122(a)(1)(C) of title 46, United States Code, to read December 19, 2017, instead of December 19, 2014.

Title IV—Implementation of workforce management improvements

Sec. 401. Workforce plans and onboarding policies.

This section would require the Maritime Administrator to review MARAD's workforce plans, including its Strategic Human Capital Plan and Leadership Succession Plan, and fully implement competency models for mission-critical occupations, including leadership positions, human resources positions, and transportation specialist positions.

This section would require the Maritime Administrator to align MARAD's onboarding policies and procedures at headquarters and the field offices and to update MARAD's training policies and training systems to include controls that ensure that all completed training is tracked in a standardized training repository.

This section would require the Maritime Administrator to submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes MARAD's compliance with this section.

Sec. 402. Drug and alcohol policy.

This section would require the Maritime Administrator to ensure that all fleet managers have received training on the DOT's drug and alcohol policy, including the testing procedures used by DOT and MARAD in cases of reasonable suspicion. It also would require MARAD to institute a system for tracking all drug and alcohol policy training in a standardized training repository.

This section would require the Administrator to submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes MARAD's compliance with this section.

Sec. 403. Vessel transfers.

This section would require the Maritime Administrator to submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes the policies and procedures for vessel transfer, including updated Vessel Transfer Office procedures to process vessel transfer applications.

*Title V—Technical amendments**Sec. 501. Clarifying amendment; continuation boards.*

This section would amend section 290(a) of title 14, United States Code, to make a clarifying amendment concerning the continuation board convened for the Coast Guard.

Sec. 502. Prospective payment of funds necessary to provide medical care.

Section 217 of the Coast Guard Authorization Act of 2015 (Public Law 114–120), established a framework for the prospective payment from the Secretary of Homeland Security to the Secretary of Defense for an amount that represents the actuarial valuation of treatment or care. This section repealed section 217 of that Act and codified clarifying and technical changes to that law under section 520 of title 14, United States Code.

Sec. 503. Technical corrections to title 46, United States Code.

This section would make technical corrections to strike unnecessary or erroneous words in title 46, United States Code.

Sec. 504. Coast Guard use of the Pribilof Islands.

This section would require the Coast Guard to report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives on the Coast Guard's use of certain tracts of land on St. Paul Island since the operation of its long range aid to navigation (LORAN-C) system was terminated; the Coast Guard's planned use of those tracts of land during FYs 2016, 2017, and 2018; and the Coast Guard's plans for using those tracts and other facilities on St. Paul Island after FY 2018.

*Title VI—Polar Icebreaker Fleet Recapitalization Transparency Act**Sec. 601. Short title.*

This section would designate the short title of this title as, the “Polar Icebreaker Fleet Recapitalization Transparency Act.”

Sec. 602. Definitions.

The definition for the term “appropriate committees of Congress” would mean the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The term “Secretary” would mean the Secretary of the department in which the Coast Guard is operating.

Sec. 603. Authority for polar icebreaker acquisition.

This section would authorize the Secretary to carry out design and construction activities for the acquisition of new heavy polar icebreakers. It would authorize advance procurement and participation in interagency financing. It would authorize appropriations.

Sec. 604. Polar icebreaker recapitalization plan.

This section would require the Secretary, in consultation with the Secretary of the Navy, to submit to Congress a detailed recapitalization plan that meets the 2013 Department of Homeland Security Mission Need Statement within 120 days after enactment. The plan would be required to include the number of heavy and medium polar ice breakers required to meet Coast Guard missions, vessel specifications, appropriations required for acquisition, and describe potential polar region gaps.

Sec. 605. GAO report icebreaking capability in the United States.

This section would require the Comptroller General of the United States to submit a report to Congress on the current state of the United States Federal polar icebreaking fleet not later than 6 months after enactment. The report would be required to include an analysis of the icebreaking assets, gaps in icebreaking capabilities, a list of countries that are allies of the United States that have icebreaking capacity, and barriers that have prevented timely recapitalization of the Coast Guard polar icebreaking fleet.

Title VII—Vessel Incidental Discharge Act

This section includes the text of S. 373, the Vessel Incidental Discharge Act, as reported by the Committee on July 29, 2015 (Senate Report 114–96).

Title VIII—National Oceanic and Atmospheric Administration Sexual Harassment and Assault Prevention Act

This section includes the text of S. 2206, the National Oceanic and Atmospheric Administration Sexual Harassment and Assault Prevention Act, as reported by the Committee on November 28, 2016 (Senate Report 114–384).

CHANGES IN EXISTING LAW

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

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES

PART III. EMPLOYEES

SUBPART B. EMPLOYMENT AND RETENTION

CHAPTER 33. EXAMINATION, SELECTION, AND PLACEMENT

SUBCHAPTER I. EXAMINATION, CERTIFICATION, AND APPOINTMENT

§ 3304. Competitive service; examinations

* * * * *

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

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

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

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

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

TITLE 10. ARMED FORCES

SUBTITLE A. GENERAL MILITARY LAW

PART II. PERSONNEL

CHAPTER 53. MISCELLANEOUS RIGHTS AND BENEFITS

§ 1044a. Authority to act as notary

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

(1) Members of any of the [armed forces] *uniformed services*.

(2) Other persons eligible for legal assistance under the provisions of section 1044 of this title or regulations of the Department of Defense.

(3) Persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(4) Other persons subject to the Uniform Code of Military Justice (chapter 47 of this title) outside the United States.

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

(1) All judge advocates, including reserve judge advocates when not in a duty status.

(2) All civilian attorneys serving as legal assistance attorneys.

(3) All adjutants, assistant adjutants, and personnel adjutants, including reserve members when not in a duty status.

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

(5) For the performance of notarial acts at locations outside the United States, all employees of a military department or the Coast Guard who are designated by regulations of the Secretary concerned or by statute to have those powers for exercise outside the United States.

(c) No fee may be paid to or received by any person for the performance of a notarial act authorized in this section.

(d) The signature of any such person acting as notary, together with the title of that person's offices, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.

TITLE 10. ARMED FORCES

SUBTITLE A. GENERAL MILITARY LAW

PART II. PERSONNEL

CHAPTER 57. DECORATIONS AND AWARDS

§ 1121. Legion of Merit: award

The President, under regulations to be prescribed by him, may award a decoration called the "Legion of Merit", having suitable appurtenances and devices and not more than four degrees, to any member of the [armed forces] *uniformed services* of the United States or of any friendly foreign nation who, after September 8, 1939, has distinguished himself by exceptionally meritorious conduct in performing outstanding services.

TITLE 10. ARMED FORCES

SUBTITLE A. GENERAL MILITARY LAW

PART II. PERSONNEL

CHAPTER 81. CIVILIAN EMPLOYEES

§ 1588. Authority to accept certain voluntary services

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

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

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

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

(A) Family support programs.

(B) Child development and youth services programs.

(C) Library and education programs.

(D) Religious programs.

(E) Housing referral programs.

(F) Programs providing employment assistance to spouses of such members.

(G) Morale, welfare, and recreation programs, to the extent not covered by another subparagraph of this paragraph.

(4) Voluntary services as a member of a funeral honors detail under section 1491 of this title.

(5) Legal services voluntarily provided as legal assistance under section 1044 of this title.

(6) Voluntary services as a proctor for administration to secondary school students of the test known as the “Armed Services Vocational Aptitude Battery”.

(7) Voluntary translation or interpretation services offered with respect to a foreign language by a person (A) who is registered for such foreign language on the National Foreign Language Skills Registry under section 1596b of this title, or (B) who otherwise is approved to provide voluntary translation or interpretation services for national security purposes, as determined by the Secretary of Defense.

(8) Voluntary services to support programs of a committee of the Employer Support of the Guard and Reserve as authorized by the Secretary of Defense.

(9) Voluntary services to facilitate accounting for missing persons.

(10) Voluntary legal support services provided by law students through internship and externship programs approved by the Secretary concerned.

* * * * *

(g) *SECRETARY CONCERNED FOR ACCEPTANCE OF SERVICES FOR PROGRAMS SERVING MEMBERS OF NOAA AND THEIR FAMILIES.—For purposes of the acceptance of services described in subsection*

(a)(3), the term “Secretary concerned” in subsection (a) shall include the Secretary of Commerce with respect to members of the National Oceanic and Atmospheric Administration.

TITLE 10. ARMED FORCES

SUBTITLE A. GENERAL MILITARY LAW

PART III. TRAINING AND EDUCATION

CHAPTER 107. PROFESSIONAL MILITARY EDUCATION

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

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

(b) WAIVER AUTHORITY.—

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

(A) in the case of an officer whose immediately previous assignment was in a joint duty assignment and who is thoroughly familiar with joint matters;

(B) when necessary for the good of the service;

(C) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist (as determined under regulations prescribed under section 619(e)(4) of this title); and

(D) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, or chaplain.

(2) The authority of the Secretary of Defense to grant a waiver under paragraph (1) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.

TITLE 14. COAST GUARD

PART I. REGULAR COAST GUARD

CHAPTER 11. PERSONNEL

OFFICERS

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

§ 290. Rear admirals and real admirals (lower half); continuation on active duty; involuntary retirement

(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of rear admiral

(lower half) or rear admiral who have not previously been considered for continuation in that grade. Officers, other than the Commandant, serving for the time being or who have served in or above the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued at the grade of rear admiral. A board shall consist of at least ~~five officers serving in the grade of vice admiral~~ *5 officers (other than the Commandant) serving in the grade of admiral or vice admiral* or as rear admirals previously continued. Boards shall be convened frequently enough to assure that each officer serving in the grade of rear admiral (lower half) or rear admiral is subject to consideration for continuation during a promotion year in which that officer completes not less than four or more than five years combined service in the grades of rear admiral (lower half) and rear admiral.

* * * * *

TITLE 14. COAST GUARD

PART I. REGULAR COAST GUARD

CHAPTER 13. PAY, ALLOWANCES, AWARDS, AND OTHER RIGHTS AND BENEFITS

§ 520. Prospective payment of funds necessary to provide medical care

(a) *PROSPECTIVE PAYMENT REQUIRED.*—*In lieu of the reimbursement required under section 1085 of title 10, the Secretary of Homeland Security shall make a prospective payment to the Secretary of Defense of an amount that represents the actuarial valuation of treatment or care—*

(1) *that the Department of Defense shall provide to members of the Coast Guard, former members of the Coast Guard, and dependents of such members and former members (other than former members and dependents of former members who are a Medicare-eligible beneficiary or for whom the payment for treatment or care is made from the Medicare-Eligible Retiree Health Care Fund) at facilities under the jurisdiction of the Department of Defense or a military department; and*

(2) *for which a reimbursement would otherwise be made under such section 1085.*

(b) *AMOUNT.*—*The amount of the prospective payment under subsection (a)—*

(1) *shall be derived from amounts appropriated for the operating expenses of the Coast Guard for treatment or care provided to members of the Coast Guard and their dependents;*

(2) *shall be derived from amounts appropriated for retired pay for treatment or care provided to former members of the Coast Guard and their dependents;*

(3) *shall be determined under procedures established by the Secretary of Defense;*

(4) *shall be paid during the fiscal year in which treatment or care is provided; and*

(5) *shall be subject to adjustment or reconciliation, as the Secretary of Homeland Security and the Secretary of Defense*

jointly determine appropriate, during or promptly after such fiscal year if the prospective payment is determined excessive or insufficient based on the services actually provided.

(c) NO PROSPECTIVE PAYMENT WHEN SERVICE IN NAVY.—No prospective payment shall be made under this section for any period during which the Coast Guard operates as a service in the Navy.

(d) RELATIONSHIP TO TRICARE.—This section shall not be construed to require a payment for, or the prospective payment of an amount that represents the value of, treatment or care provided under any TRICARE program.

TITLE 18. CRIMES AND CRIMINAL PROCEDURE

PART I. CRIMES

CHAPTER 33. EMBLEMS, INSIGNIA, AND NAMES

§ 702. Uniform of armed forces and Public Health Service

Whoever, in any place within the jurisdiction of the United States or in the Canal Zone, without authority, wears the uniform or a distinctive part thereof or anything similar to a distinctive part of the uniform of any of the armed forces of the United States, Public Health [Service or any] Service, the commissioned officer corps of the National Oceanic and Atmospheric Administration, or any auxiliary of such, shall be fined under this title or imprisoned not more than six months, or both.

TITLE 37. PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

CHAPTER 3. BASIC PAY

§ 203. Rates

(a)(1) The rates of monthly basic pay for members of the uniformed services within each pay grade are those prescribed in accordance with section 1009 of this title or as otherwise prescribed by law.

(2) Notwithstanding the rates of basic pay in effect at any time as provided by law, the rates of basic pay payable for commissioned officers in pay grades O-7 through O-10 may not exceed the monthly equivalent of the rate of pay for level II of the Executive Schedule, and the rates of basic pay payable for all other officers and for enlisted members may not exceed the monthly equivalent of the rate of pay for level V of the Executive Schedule.

* * * * *

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

(2) An individual who graduates from such program shall receive credit for the time spent participating in such program as if such time were time served while on active duty as a commissioned offi-

cer. If the individual does not graduate from such program, such time shall not be considered creditable for active duty or pay.

TITLE 38. VETERANS' BENEFITS

PART I. GENERAL PROVISIONS

CHAPTER 1. GENERAL

§ 101. Definitions

For the purposes of this title—

* * * * *

- (21) The term “active duty” means—
 - (A) full-time duty in the Armed Forces, other than active duty for training;
 - (B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to “full military benefits” or (iii) at any time, for the purposes of chapter 13 of this title;
 - (C) full-time duty as a commissioned officer *in the commissioned officer corps* of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (I) while on transfer to one of the Armed Forces, or (II) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (III) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;
 - (D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and
 - (E) authorized travel to or from such duty or service.

* * * * *

TITLE 38. VETERANS' BENEFITS

PART III. READJUSTMENT AND RELATED BENEFITS

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

SUBCHAPTER I. GENERAL

§ 4303. Definitions

For the purposes of this chapter—

* * * * *

- (16) The term “uniformed services” means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, *the commissioned officer corps of the Na-*

tional Oceanic and Atmospheric Administration, and any other category of persons designated by the President in time of war or national emergency.

TITLE 46. SHIPPING

SUBTITLE II. VESSELS AND SEAMEN

PART B. INSPECTION AND REGULATION OF VESSELS

CHAPTER 45. UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

§ 4503. Fishing, fish tender, and fish processing vessel certification

* * * * *

(f)(1) Not later than 10 years after the date of the enactment of the Coast Guard Authorization Act of 2015, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that provides an analysis of the adequacy of the requirements under subsection (e) in maintaining the safety of the fishing vessels and fish tender vessels which are described in subsection (c)(2) and which comply with the requirements of subsection (e).

(2) If the report required under this subsection includes a determination that the safety requirements under subsection (e) are not adequate or that additional safety measures are necessary, **[that]** the Secretary may establish an alternative safety compliance program for fishing vessels or fish tender vessels (or both) which are described in subsection (c)(2) and which comply with the requirements of subsection (e).¹

(3) The alternative safety compliance program established under this subsection shall include requirements for—

- (A) vessel construction;
- (B) a vessel stability test;
- (C) vessel stability and loading instructions;
- (D) an assigned vessel loading mark;
- (E) a vessel condition survey at least twice in 5 years, not to exceed 3 years between surveys;
- (F) an out-of-water vessel survey at least once every 5 years;
- (G) maintenance of records to demonstrate compliance with the program, and the availability of such records for inspection; and
- (H) such other aspects of vessel safety as the Secretary considers appropriate.

(g) For the purposes of this section, the term “built” means, with respect to a vessel, that the vessel’s construction has reached any of the following stages:

- (1) The vessel’s keel is laid.
- (2) Construction identifiable with the vessel has begun and assembly of that vessel has commenced comprising of at least 50 metric tons or one percent of the estimated mass of all structural material, whichever is less.

¹ The amendment to section 4503(f)(2) of title 46, United States Code, shall take effect on the date of enactment of the Coast Guard Authorization Act of 2015 (Public Law 114—120).

TITLE 46. SHIPPING

SUBTITLE II. VESSELS AND SEAMEN

PART E. MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

CHAPTER 75. GENERAL PROCEDURES FOR LICENSING, CERTIFICATION, AND DOCUMENTATION

§ 7510. Examinations for merchant mariner credentials

(a) DISCLOSURE NOT REQUIRED.—Notwithstanding any other provision of law, the Secretary is not required to disclose to the public—

- (1) a question from any examination for a merchant mariner credential;
- (2) the answer to such a question, including any correct or incorrect answer that may be presented with such question; and
- (3) any quality or characteristic of such a question, including—
 - (A) the manner in which such question has been, is, or may be selected for an examination;
 - (B) the frequency of such selection; and
 - (C) the frequency that an examinee correctly or incorrectly answered such question.

(b) EXCEPTION FOR CERTAIN QUESTIONS.—Notwithstanding subsection (a), the Secretary may, for the purpose of preparation by the general public for examinations required for merchant mariner credentials, release an examination question and answer that the Secretary has retired or is not presently on or part of an examination, or that the Secretary determines is appropriate for release.

(c) EXAM REVIEW.—²

- (1) IN GENERAL.—Not later than 90 days after the date of the enactment of the Coast Guard Authorization Act of 2015, and once every two years thereafter, the Commandant of the Coast Guard shall commission a working group to review new questions for inclusion in examinations required for merchant mariner credentials, composed of—
 - (A) 1 subject matter expert from the Coast Guard;
 - (B) representatives from training facilities and the maritime industry, of whom—
 - (i) one-half shall be representatives from approved training facilities; and
 - (ii) one-half shall be representatives from the appropriate maritime industry;
 - (C) at least 1 representative from the Merchant Marine Personnel Advisory Committee;
 - (D) at least 2 representatives from the State maritime academies, of whom one shall be a representative from the deck training track and one shall be a representative of the [engine] *engineer* license track;

² The amendments to section 7510(c) of title 46, United States Code, shall take effect on the date of enactment of the Coast Guard Authorization Act of 2015 (Public Law 114—120).

- (E) representatives from other Coast Guard Federal advisory committees, as appropriate, for the industry segment associated with the subject examinations;
- (F) at least 1 subject matter expert from the Maritime Administration; and
- (G) at least 1 human performance technology representative.
- (2) INCLUSION OF PERSONS KNOWLEDGEABLE ABOUT EXAMINATION TYPE.—The working group shall include representatives knowledgeable about the examination type under review.
- (3) LIMITATION.—The requirement to convene a working group under paragraph (1) does not apply unless there are new examination questions to review.
- (4) BASELINE REVIEW.—
- (A) IN GENERAL.—Within 1 year after the date of the enactment of the Coast Guard Authorization Act of 2015, the Secretary shall convene the working group to complete a baseline review of the Coast Guard’s Merchant Mariner Credentialing Examination, including review of—
- (i) the accuracy of examination questions;
 - (ii) the accuracy and availability of examination references;
 - (iii) the length of merchant mariner examinations; and
 - (iv) the use of standard technologies in administering, scoring, and analyzing the examinations.
- (B) PROGRESS REPORT.—The Coast Guard shall provide a progress report to the appropriate congressional committees on the review under this paragraph.
- (5) FULL MEMBERSHIP NOT REQUIRED.—The Coast Guard may convene the working group without all members present if any non-Coast-Guard representative is present.
- (6) NONDISCLOSURE AGREEMENT.—The Secretary shall require all members of the working group to sign a nondisclosure agreement with the Secretary.
- (7) TREATMENT OF MEMBERS AS FEDERAL EMPLOYEES.—A member of the working group who is not a Federal Government employee shall not be considered a Federal employee in the service or the employment of the Federal Government, except that such a member shall be considered a special government employee, as defined in section 202(a) of title 18 for purposes of sections 203, 205, 207, 208, and 209 of such title and shall be subject to any administrative standards of conduct applicable to an employee of the department in which the Coast Guard is operating.
- (8) FORMAL EXAM REVIEW.—The Secretary shall ensure that the Coast Guard Performance Technology Center—
- (A) prioritizes the review of examinations required for merchant mariner credentials; and
 - (B) not later than 3 years after the date of enactment of the Coast Guard Authorization Act of 2015, completes a formal review, including an appropriate analysis, of the topics and testing methodology employed by the National Maritime Center for merchant seamen licensing.

(9) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any working group created under this section to review the Coast Guard’s merchant mariner credentialing examinations.

(d) MERCHANT MARINER CREDENTIAL DEFINED.—In this section, the term “merchant mariner credential” means a merchant seaman license, certificate, or document that the Secretary is authorized to issue pursuant to this title.

TITLE 46. SHIPPING

SUBTITLE II. VESSELS AND SEAMEN

PART G. MERCHANT SEAMEN PROTECTION AND RELIEF

CHAPTER 103. FOREIGN AND INTERCOASTAL VOYAGES

§ 10313. Wages

(g)(1) Subject to paragraph (2), when payment is not made as provided under subsection (f) of this section without sufficient cause, the master or owner shall pay to the seaman 2 days’ wages for each day payment is delayed.

(2) The total amount required to be paid under paragraph (1) with respect to **all claims in a class action suit by seamen** *each claim by a seaman* on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of **the seamen** *the seaman* shall not exceed ten times the unpaid wages that are the subject of the claims.

(3) A **class action** suit for wages under this subsection must be commenced within three years after the later of—

(A) the date of the end of the last voyage for which the wages are claimed; or

(B) the receipt **by a seaman who is a claimant in the suit,** *by the seaman* of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.

(h) Subsections (f) and (g) of this section do not apply to a fishing or whaling vessel or a yacht.

(i) This section applies to a seaman on a foreign vessel when in a harbor of the United States. The courts are available to the seaman for the enforcement of this section.

TITLE 46. SHIPPING

SUBTITLE II. VESSELS AND SEAMEN

PART G. MERCHANT SEAMEN PROTECTION AND RELIEF

CHAPTER 105. COASTWISE VOYAGES

§ 10504. Wages

(a) After the beginning of a voyage, a seaman is entitled to receive from the master, on demand, one-half of the balance of wages earned and unpaid at each port at which the vessel loads or delivers cargo during the voyage. A demand may not be made before the expiration of 5 days from the beginning of the voyage, not more than once in 5 days, and not more than once in the same port on

the same entry. If a master does not comply with this subsection, the seaman is released from the agreement required by section 10502 of this title and is entitled to payment of all wages earned. Notwithstanding a release signed by a seaman under section 10312 of this title, a court having jurisdiction may set aside, for good cause shown, the release and take action that justice requires. This subsection does not apply to a fishing or whaling vessel or a yacht.

(b) The master shall pay a seaman the balance of wages due the seaman within 2 days after the termination of the agreement required by section 10502 of this title or when the seaman is discharged, whichever is earlier.

(c)(1) Subject to subsection (d), and except as provided in paragraph (2), when payment is not made as provided under subsection (b) of this section without sufficient cause, the master or owner shall pay to the seaman 2 days' wages for each day payment is delayed.

(2) The total amount required to be paid under paragraph (1) with respect to **all claims in a class action suit by seamen** *each claim by a seaman* on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of **the seamen** *the seaman* shall not exceed ten times the unpaid wages that are the subject of the claims.

(3) A **class action** suit for wages under this subsection must be commenced within three years after the later of—

(A) the date of the end of the last voyage for which the wages are claimed; or

(B) the receipt **by a seaman who is a claimant in the suit,** *by the seaman* of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.

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TITLE 46. SHIPPING

SUBTITLE III. MARITIME LIABILITY

CHAPTER 301. GENERAL LIABILITY PROVISIONS

§ 30104. Personal injury to or death of seamen

(a) *IN GENERAL.*—A seaman injured in the course of employment or, if the seaman dies from the injury, the personal representative of the seaman may elect to bring a civil action at law, with the right of trial by jury, against the employer. Laws of the United States regulating recovery for personal injury to, or death of, a railway employee apply to an action under this section.

(b) *RESTRICTION ON RECOVERY FOR NONRESIDENT ALIENS EMPLOYED ON FOREIGN PASSENGER VESSELS.*—A claim for damages or expenses relating to personal injury, illness, or death of a seaman who is a citizen of a foreign nation, arising during or from the engagement of the seaman by or for a passenger vessel duly registered under the laws of a foreign nation, may not be brought under the laws of the United States if—

(1) *such seaman was not a permanent resident alien of the United States at the time the claim arose;*

(2) *the injury, illness, or death arose outside the territorial waters of the United States; and*

(3) *the seaman or the seaman's personal representative has or had a right to seek compensation for the injury, illness, or death in, or under the laws of—*

(A) *the nation in which the vessel was registered at the time the claim arose; or*

(B) *the nation in which the seaman maintained citizenship or residency at the time the claim arose.*

(c) *COMPENSATION DEFINED.—As used in subsection (b), the term “compensation” means—*

(1) *a statutory workers' compensation remedy that complies with Standard A4.2 of Regulation 4.2 of the Maritime Labour Convention, 2006; or*

(2) *in the absence of the remedy described in paragraph (1), a legal remedy that complies with Standard A4.2 of Regulation 4.2 of the Maritime Labour Convention, 2006, that permits recovery for lost wages, pain and suffering, and future medical expenses.*

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART A. GENERAL

CHAPTER 503. ADMINISTRATIVE

§ 50302. Port development

(a) **GENERAL REQUIREMENTS.**—With the objective of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which the Secretary of Transportation has jurisdiction, the Secretary, in cooperation with the Secretary of the Army, shall—

(1) investigate territorial regions and zones tributary to ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce;

(2) investigate the causes of congestion of commerce at ports and applicable remedies;

(3) investigate the subject of water terminals, including the necessary docks, warehouses, and equipment, to devise and suggest the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between water carriers and rail carriers;

(4) consult with communities on the appropriate location and plan of construction of wharves, piers, and water terminals;

(5) investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and

(6) investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight that naturally would pass through those ports.

(b) **SUBMISSION OF FINDINGS TO SURFACE TRANSPORTATION BOARD.**—After an investigation under subsection (a), if the Sec-

retary of Transportation believes that the rates or practices of a rail carrier subject to the jurisdiction of the Surface Transportation Board are detrimental to the objective specified in subsection (a), or that new rates or practices, new or additional port terminal facilities, or affirmative action by a rail carrier is necessary to promote that objective, the Secretary may submit findings to the Board for action the Board considers appropriate under existing law.

(c) PORT INFRASTRUCTURE DEVELOPMENT PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation, through the Maritime Administrator, shall establish a port infrastructure development program for the improvement of port facilities as provided in this subsection.

(2) AUTHORITY OF THE ADMINISTRATOR.—In order to carry out any project under the program established under paragraph (1), the Administrator may—

(A) receive funds provided for the project from Federal, non-Federal, and private entities that have a specific agreement or contract with the Administrator to further the purposes of this subsection;

(B) coordinate with other Federal agencies to expedite the process established under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the improvement of port facilities to improve the efficiency of the transportation system, to increase port security, or to provide greater access to port facilities;

(C) seek to coordinate all reviews or requirements with appropriate local, State, and Federal agencies; and

(D) provide such technical assistance and financial assistance, including grants, to port authorities or commissions or their subdivisions and agents as needed for project planning, design, and construction.

(3) PORT INFRASTRUCTURE DEVELOPMENT FUND.—

(A) ESTABLISHMENT.—There is a Port Infrastructure Development Fund for use by the Administrator in carrying out projects under the port infrastructure development program. The Fund shall be available to the Administrator—

(i) to administer and carry out projects under the program;

(ii) to receive Federal, non-Federal, and private funds from entities which have specific agreements or contracts with the Administrator; and

(iii) to make refunds for projects that will not be completed.

(B) CREDITS.—There may be deposited into the Fund—

(i) funds from Federal, non-Federal, and private entities which have agreements or contracts with the Administrator and which shall remain in the Fund until expended or refunded; and

(ii) such amounts as may be appropriated or transferred, subject to subparagraph (C), to the Fund under this subsection.

(C) TRANSFERS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), amounts appropriated or otherwise made available for any fiscal year for a marine facility or intermodal facility that includes maritime transportation may be transferred, at the option of the recipient of such amounts, to the Fund and administered by the Administrator as a component of a project under the program.

(ii) PROHIBITION ON TRANSFERS.—Except as provided in clause (iii), no funds appropriated or made available under title 23 or chapter 53 of title 49, United States Code, including funds from the Highway Trust Fund (section 9503(c) of the Internal Revenue Code of 1986), funds from the Mass Transit Account of the Highway Trust Fund (section 9503(e) of Internal Revenue Code of 1986), and funds provided for public transportation programs within the mass transit category (as defined in section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985), shall be transferred into the Fund.

(iii) EXCEPTION.—

(I) IN GENERAL.—Amounts described in subclause (II) are eligible for transfer into the Fund if—

(aa) the recipient of the amounts has a specific agreement or contract with the Administrator;

(bb) the Department of Transportation agency that administers the amounts to be transferred has granted project approval for each component of the project that is to be funded using such amounts;

(cc) the Department of Transportation agency that administers the amounts to be transferred and the Maritime Administration agree to the transfer through a signed Memorandum of Understanding; and

(dd) the amounts will be used only to carry out the project for which funds were approved, and in accordance with any conditions governing the amounts under title 23 or chapter 53 of title 49, United States Code.

(II) AMOUNTS DESCRIBED.—The amounts referred to in subclause (I) are amounts appropriated or made available—

(aa) for loans, loan guarantees, or lines of credit under chapter 6 of title 23, United States Code, for a project eligible under such chapter to facilitate direct intermodal exchange, transfer, and access into and out of a port as defined under section 601(a)(8)(D)(iii) of such title, as in effect on the date of enactment of this subsection; or

(bb) for projects under title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(D) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect existing authorities to conduct port infrastructure programs in Hawaii (as authorized by section 9008 of Public Law 109-59), Alaska (as authorized by section 10205 of Public Law 109-59), or Guam (as authorized by section 3512 of Public Law 110-417).

(4) AUTHORIZATION OF APPROPRIATIONS.—**[There are authorized]**

(A) *IN GENERAL.*—*There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the program, taking into account amounts received under paragraph (3)(A)(ii).*

(B) *ADMINISTRATIVE EXPENSES.*—*Except as otherwise provided by law, the Administrator may use not more than 3 percent of the amounts appropriated to carry out this section for the administrative expenses of the program.*

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART B. MERCHANT MARINE SERVICE

CHAPTER 513. UNITED STATES MERCHANT MARINE ACADEMY

§ 51303. Non-competitive appointments

The Secretary of Transportation may appoint each year without competition as cadets at the United States Merchant Marine Academy not more than **[40]** 50 qualified individuals with qualities the Secretary considers to be of special value to the Academy. In making these appointments, the Secretary shall try to achieve a national demographic balance at the Academy.

§ 51318. Policy on sexual harassment and sexual assault

(a) *REQUIRED POLICY.*—

(1) *IN GENERAL.*—*The Secretary of Transportation shall direct the Superintendent of the United States Merchant Marine Academy to prescribe a policy on sexual harassment and sexual assault applicable to the cadets and other personnel of the Academy.*

(2) *MATTERS TO BE SPECIFIED IN POLICY.*—*The policy on sexual harassment and sexual assault prescribed under this subsection shall include—*

(A) *a program to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel;*

(B) *procedures that a cadet should follow in the case of an occurrence of sexual harassment or sexual assault, including—*

(i) *specifying the person or persons to whom an alleged occurrence of sexual harassment or sexual as-*

sault should be reported by a cadet and the options for confidential reporting;

(ii) specifying any other person whom the victim should contact; and

(iii) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault;

(C) a procedure for disciplinary action in cases of alleged criminal sexual assault involving a cadet or other Academy personnel;

(D) any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual assault involving a cadet or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible; and

(E) required training on the policy for all cadets and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual assault involving Academy personnel.

(3) AVAILABILITY OF POLICY.—The Secretary shall ensure that the policy developed under this subsection is available to—

(A) all cadets and employees of the Academy; and

(B) the public.

(4) CONSULTATION AND ASSISTANCE.—In developing the policy under this subsection, the Secretary may consult or receive assistance from such Federal, State, local, and national organizations and subject matter experts as the Secretary considers appropriate.

(b) DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—The Secretary of Transportation shall ensure that the development program of the United States Merchant Marine Academy includes a section that—

(A) describes the relationship between honor, respect, and character development and the prevention of sexual harassment and sexual assault at the Academy; and

(B) includes a brief history of the problem of sexual harassment and sexual assault in the merchant marine, in the Armed Forces, and at the Academy; and

(C) includes information relating to reporting sexual harassment and sexual assault, victims' rights, and dismissal for offenders.

(2) TRAINING.—The Superintendent of the Academy shall ensure that all cadets receive the training described in paragraph (1)—

(A) not later than 7 days after their initial arrival at the Academy; and

(B) biannually thereafter until they graduate or leave the Academy.

(c) ANNUAL ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Transportation, in cooperation with the Superintendent of the Academy, shall conduct an assessment at the Academy during each Academy program year to determine the effectiveness of the policies, procedures, and training of the Academy with respect to sexual harassment and sexual assault involving cadets or other Academy personnel.

(2) *BIENNIAL SURVEY.*—For each assessment of the Academy under paragraph (1) during an Academy program year that begins in an odd-numbered calendar year, the Secretary shall conduct a survey of cadets and other Academy personnel—

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and sexual assault events, on or off the Academy campus, that have been reported to officials of the Academy; and

(ii) the incidence, during that program year, of sexual harassment and sexual assault events, on or off the Academy campus, that have not been reported to officials of the Academy; and

(B) to assess the perceptions of cadets and other Academy personnel on—

(i) the policies, procedures, and training on sexual harassment and sexual assault involving cadets or Academy personnel;

(ii) the enforcement of the policies described in clause (i);

(iii) the incidence of sexual harassment and sexual assault involving cadets or Academy personnel; and

(iv) any other issues relating to sexual harassment and sexual assault involving cadets or Academy personnel.

(3) *FOCUS GROUPS FOR YEARS WHEN SURVEY NOT REQUIRED.*—In any year in which the Secretary of Transportation is not required to conduct the survey described in paragraph (2), the Secretary shall conduct focus groups at the Academy for the purposes of ascertaining information relating to sexual assault and sexual harassment issues at the Academy.

(d) *ANNUAL REPORT.*—

(1) *IN GENERAL.*—The Superintendent of the Academy shall submit a report to the Secretary of Transportation that provides information about sexual harassment and sexual assault involving cadets or other personnel at the Academy for each Academy program year.

(2) *CONTENTS.*—Each report submitted under paragraph (1) shall include, for the Academy program year covered by the report—

(A) the number of sexual assaults, rapes, and other sexual offenses involving cadets or other Academy personnel that have been reported to Academy officials;

(B) the number of the reported cases described in subparagraph (A) that have been substantiated;

(C) the policies, procedures, and training implemented by the Superintendent and the leadership of the Academy in response to sexual harassment and sexual assault involving cadets or other Academy personnel; and

(D) a plan for the actions that will be taken in the following Academy program year regarding prevention of, and response to, sexual harassment and sexual assault involving cadets or other Academy personnel.

(3) *SURVEY AND FOCUS GROUP RESULTS.*—

(A) *SURVEY RESULTS.*—Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

(B) *FOCUS GROUP RESULTS.*—Each report under paragraph (1) for an Academy program year in which the Secretary of Transportation is not required to conduct the survey described (c)(2) shall include the results of the focus group conducted in that program year under subsection (c)(3).

(4) *REPORTING REQUIREMENT.*—

(A) *BY THE SUPERINTENDENT.*—For each incident of sexual harassment or sexual assault reported to the Superintendent under this subsection, the Superintendent shall provide the Secretary of Transportation and the Board of Visitors of the Academy with a report that includes—

(i) the facts surrounding the incident, except for any details that would reveal the identities of the people involved; and

(ii) the Academy's response to the incident.

(B) *BY THE SECRETARY.*—The Secretary shall submit a copy of each report received under subparagraph (A) and the Secretary's comments on the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

§ 51319. Sexual assault response coordinators and sexual assault victim advocates

(a) *SEXUAL ASSAULT RESPONSE COORDINATORS.*—The United States Merchant Marine Academy shall employ or contract with at least 1 full-time sexual assault response coordinator who shall reside on or near the Academy. The Secretary of Transportation may assign additional full-time or part-time sexual assault response coordinators at the Academy as may be necessary.

(b) *VOLUNTEER SEXUAL ASSAULT VICTIM ADVOCATES.*—

(1) *IN GENERAL.*—The Secretary of Transportation, acting through the Superintendent of the United States Merchant Marine Academy, shall designate 1 or more permanent employees who volunteer to serve as advocates for victims of sexual assaults involving—

(A) cadets of the Academy; or

(B) individuals who work with or conduct business on behalf of the Academy.

(2) *TRAINING; OTHER DUTIES.*—Each victim advocate designated under this subsection shall—

(A) have or receive training in matters relating to sexual assault and the comprehensive policy developed under section 51318 of title 46, United States Code, as added by section 201; and

(B) serve as a victim advocate voluntarily, in addition to the individual's other duties as an employee of the Academy.

(3) *PRIMARY DUTIES.*—While performing the duties of a victim advocate under this subsection, a designated employee shall—

(A) support victims of sexual assault by informing them of the rights and resources available to them as victims;

(B) identify additional resources to ensure the safety of victims of sexual assault; and

(C) connect victims of sexual assault to an Academy sexual assault response coordinator, or full-time or part-time victim advocate, who shall act as a companion in navigating investigative, medical, mental and emotional health, and recovery processes relating to sexual assault.

(4) *COMPANION*.—At least 1 victim advocate designated under this subsection, while performing the duties of a victim advocate, shall act as a companion in navigating investigative, medical, mental and emotional health, and recovery processes relating to sexual assault.

(5) *HOTLINE*.—The Secretary shall establish a 24-hour hotline through which the victim of a sexual assault can receive victim support services.

(6) *FORMAL RELATIONSHIPS WITH OTHER ENTITIES*.—The Secretary may enter into formal relationships with other entities to make available additional victim advocates or to implement paragraphs (3), (4), and (5).

(7) *CONFIDENTIALITY*.—Information disclosed by a victim to an advocate designated under this subsection—

(A) shall be treated by the advocate as confidential; and

(B) may not be disclosed by the advocate without the consent of the victim.

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART B. MERCHANT MARINE SERVICE

CHAPTER 515. STATE MARITIME ACADEMY SUPPORT PROGRAM

§ 51504. Use of training vessels

(a) *APPLICATIONS TO USE VESSELS*.—The Governor of a State sponsoring a State maritime academy (or the Governor of the State designated to conduct the affairs of a regional maritime academy) may apply in writing to the Secretary of Transportation to obtain the use of a training vessel for the academy. A vessel provided under this section remains the property of the United States Government.

* * * * *

[(g) *REMOVING VESSELS FROM SERVICE AND VESSEL SHARING*.—The Secretary may not—

[(1) take a vessel, currently in use as a training vessel under this section, out of service to implement an alternative program (including vessel sharing) unless the vessel is incapable of being maintained in good repair as required by subsection (d); or

[(2) implement a program requiring a State maritime academy to share its training vessel with another State maritime academy, except with the express consent of Congress.]

(g) *VESSEL SHARING*.—The Secretary, after consulting with the affected State maritime academies, may implement a program requir-

ing a State maritime academy to share its training vessel with another State maritime academy if the vessel of another State maritime academy—

- (1) is being used during a humanitarian assistance or disaster response activity;
- (2) is incapable of being maintained in good repair as required under section 51504(c) of title 46, United States Code;
- (3) requires maintenance or repair for an extended period;
- (4) is activated as a National Defense Reserve Fleet vessel pursuant to section 4405 of title 50, United States Code;
- (5) loses its Coast Guard Certificate of Inspection or its classification; or
- (6) does not comply with applicable environmental regulations.

§ 51506. Conditions to receiving payments and use of vessels

(a) GENERAL CONDITIONS.—As conditions of receiving an annual payment or the use of a vessel under this chapter, a State maritime academy **[must]** shall—

(1) provide courses of instruction on navigation, marine engineering (including steam and diesel propulsion), the operation and maintenance of new vessels and equipment, and innovations being introduced to the merchant marine of the United States;

(2) agree in writing to conform to the standards for courses, training facilities, admissions, and instruction that the Secretary of Transportation may establish after consultation with the superintendents of State maritime academies; **[and]**

(3) agree in writing to require, as a condition for graduation, that each individual who is a citizen of the United States and who is attending the academy in a merchant marine officer preparation program pass the examination required for the issuance of a license under section 7101 of this title **[.]**; and

(4) agree that any individual enrolled at such State maritime academy in a merchant marine officer preparation program—

(A) shall, not later than 9 months after each such individual's date of enrollment, pass an examination in form and substance satisfactory to the Secretary that demonstrates that such individual meets the medical and physical requirements—

(i) required for the issuance of an original license under section 7101; or

(ii) set by the Coast Guard for issuing merchant mariners' documentation under section 7302, with no limit to his or her operational authority;

(B) following passage of the examination under subparagraph (A), shall continue to meet the requirements or standards described in subparagraph (A) throughout the remainder of their respective enrollments at the State maritime academy; and

(C) if the individual has a medical or physical condition that disqualifies him or her from meeting the requirements or standards referred to in subparagraph (A), shall be transferred to a program other than a merchant marine officer preparation program, or otherwise appropriately

disenrolled from such State maritime academy, until the individual demonstrates to the Secretary that the individual meets such requirements or standards.

(b) **ADDITIONAL CONDITION TO PAYMENTS OF MORE THAN \$25,000.**—As a condition of receiving an annual payment of more than \$25,000 under section 51505 of this title, a State maritime academy also must agree to admit each year a number of citizens of the United States who meet its admission requirements and reside in a State not supporting that academy. The Secretary shall determine the number of individuals to be admitted by each academy under this subsection. The number may not be more than one-third of the total number of individuals attending the academy at any time.

(c) **SECRETARIAL WAIVER AUTHORITY.**—*The Secretary is authorized to modify or waive any of the terms set forth in subsection (a)(4) with respect to any individual or State maritime academy.*

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART C. FINANCIAL ASSISTANCE PROGRAMS

CHAPTER 531. MARITIME SECURITY FLEET

§ 53102. Establishment of Maritime Security Fleet

(a) **IN GENERAL.**—The Secretary of Transportation, in consultation with the Secretary of Defense, shall establish a fleet of active, commercially viable, militarily useful, privately owned vessels to meet national defense and other security requirements and maintain a United States presence in international commercial shipping. The Fleet shall consist of privately owned, United States-documented vessels for which there are in effect operating agreements under this chapter, and shall be known as the Maritime Security Fleet.

* * * * *

(g) **AUTHORITY FOR EXTENSION OF MAXIMUM SERVICE AGE FOR A PARTICIPATING FLEET VESSEL.**—*The Secretary of Defense, in conjunction with the Secretary of Transportation, may extend the maximum age restrictions under sections 53101(5)(A)(ii) and 53106(c)(3) for a particular participating fleet vessel for up to 5 years if the Secretary of Defense and the Secretary of Transportation jointly determine that such extension is in the national interest.*

§ 53106. Payments

(a) **ANNUAL PAYMENT.**—

(1) **IN GENERAL.**—The Secretary, subject to the availability of appropriations and the other provisions of this section, shall pay to the contractor for an operating agreement, for each vessel that is covered by the operating agreement, an amount equal to—

(A) \$2,600,000 for each of fiscal years 2006, 2007, and 2008;

(B) \$2,900,000 for each of fiscal years 2009, 2010, and 2011;

- (C) \$3,100,000 for each of fiscal years 2012, 2013, 2014, and 2015;
- (D) \$4,999,950 for fiscal year 2017;
- (E) \$5,000,000 for each of fiscal years 2018, 2019, and 2020;
- (F) \$5,233,463 for fiscal year 2021; and
- (G) \$3,700,000 for each of fiscal years 2022, 2023, 2024, and 2025.

(2) **TIMING.**—The amount shall be paid in equal monthly installments at the end of each month. The amount shall not be reduced except as provided by this section.

(b) **CERTIFICATION REQUIRED FOR PAYMENT.**—As a condition of receiving payment under this section for a fiscal year for a vessel, the contractor for the vessel shall certify, in accordance with regulations issued by the Secretary, that the vessel has been and will be operated in accordance with section 53105(a)(1) for at least 320 days in the fiscal year. Days during which the vessel is drydocked, surveyed, inspected, or repaired shall be considered days of operation for purposes of this subsection.

(c) **GENERAL LIMITATIONS.**—The Secretary of Transportation shall not make any payment under this chapter for a vessel with respect to any days for which the vessel is—

(1) under a charter to the United States Government, other than a charter pursuant to an Emergency Preparedness Agreement under section 53107;

(2) not operated or maintained in accordance with an operating agreement under this chapter; or

(3) more than—

(A) 25 years of age, except as provided in subparagraph

(B) **[or (C)]; or**

(B) 20 years of age, in the case of a tank vessel **[; or].**

[(C) 30 years of age, in the case of a lighter aboard ship vessel.

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TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART D. PROMOTIONAL PROGRAMS

CHAPTER 551. COASTWISE TRADE

§ 55122. Floating dry docks

(a) **IN GENERAL.**—Section 55102 of this title does not apply to the movement of a floating dry dock if—

(1) the floating dry dock—

(A) is being used to launch or raise a vessel in connection with the construction, maintenance, or repair of that vessel;

(B) is owned and operated by—

(i) a shipyard located in the United States that is an eligible owner specified under section 12103(b) of this title; or

(ii) an affiliate of such a shipyard; and

(C) was owned or contracted for purchase by such shipyard or affiliate prior to [the date of the enactment of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015] *December 19, 2017*; and

(2) the movement occurs within 5 nautical miles of the shipyard or affiliate that owns and operates such floating dry dock.

(b) DEFINITION.—In this section, the term “floating dry dock” means equipment with wing walls and a fully submersible deck.

TITLE 49. TRANSPORTATION

SUBTITLE I. DEPARTMENT OF TRANSPORTATION

CHAPTER 1. ORGANIZATION

§ 109. Maritime Administration

(a) ORGANIZATION AND MISSION.—The Maritime Administration is an administration in the Department of Transportation. The mission of the Maritime Administration is to foster, promote, and develop the merchant maritime industry of the United States.

* * * * *

(k) *SUBMISSION OF ANNUAL MARITIME ADMINISTRATION AUTHORIZATION REQUEST.*—

(1) *IN GENERAL.*—Not later than 30 days after the date on which the President submits to Congress a budget for a fiscal year pursuant to section 1105 of title 31, the Maritime Administrator shall submit a Maritime Administration authorization request with respect to such fiscal year to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) *DEFINED TERM.*—In this subsection, the term “Maritime Administration authorization request” means a proposal for legislation that, with respect to the Maritime Administration for the relevant fiscal year—

(A) recommends authorizations of appropriations for that fiscal year; and

(B) addresses any other matter that the Maritime Administrator determines is appropriate for inclusion in a Maritime Administration authorization bill.

TITLE 50. WAR AND NATIONAL DEFENSE

CHAPTER 54. MERCHANT SHIP SALES

§ 4405. National Defense Reserve Fleet

(a) FLEET COMPONENTS.—The Secretary of Transportation shall maintain a National Defense Reserve Fleet, including any vessel assigned by the Secretary to the Ready Reserve Force component of the fleet, consisting of those vessels owned or acquired by the United States Government that the Secretary of Transportation, after consultation with the Secretary of the Navy, determines are of value for national defense purposes and that the Secretary of Transportation decides to place and maintain in the fleet. *Vessels in the National Defense Reserve Fleet, including vessels loaned to*

State maritime academies, shall be considered public vessels of the United States.

* * * * *

(g) *VESSEL STATUS.*—*Ships or other watercraft in the National Defense Reserve Fleet determined by the Maritime Administration to be of insufficient value to remain in the National Defense Reserve Fleet—*

(1) *shall remain vessels (as defined in section 3 of title 1); and*

(2) *shall remain subject to the rights and responsibilities of a vessel under admiralty law until such time as the vessel is delivered to a dismantling facility or is otherwise disposed of from the National Defense Reserve Fleet.*

NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990

[Public Law 101-646; 104 Stat. 4761]

SEC. 1205. RELATIONSHIP TO OTHER LAWS.

[16 U.S.C. 4725]

[All actions]

(a) *IN GENERAL.*—*Except as provided in subsection (b), all actions taken by Federal agencies in implementing the provisions of section 1202 shall be consistent with all applicable Federal, State, and local environmental laws. Nothing in this title shall affect the authority of any State or political subdivision thereof to adopt or enforce control measures for aquatic nuisance species, or diminish or affect the jurisdiction of any State over species of fish and wildlife. Compliance with the control and eradication measures of any State or political subdivision thereof regarding aquatic nuisance species shall not relieve any person of the obligation to comply with the provisions of this subtitle.*

(b) *VESSEL INCIDENTAL DISCHARGES.*—*Notwithstanding subsection (a), the Vessel Incidental Discharge Act shall be the exclusive statutory authority for the regulation by the Federal Government of discharges incidental to the normal operation of a vessel.*

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS ACT OF 2002

[33 U.S.C. 3001 et seq.]

SEC. 212. DEFINITIONS.

[33 U.S.C. 3002]

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

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

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

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

[SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.

[33 U.S.C. 3004]

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

- [(1) 8 in the grade of captain.
- [(2) 14 in the grade of commander.
- [(3) 19 in the grade of lieutenant commander.
- [(4) 23 in the grade of lieutenant.
- [(5) 18 in the grade of lieutenant (junior grade).
- [(6) 18 in the grade of ensign.

[(b) *COMPUTATION OF NUMBER IN GRADE.*—

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

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

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

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

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

SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.

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

- (1) *Vice admiral.*
- (2) *Rear admiral.*
- (3) *Rear admiral (lower half).*

- (4) Captain.
- (5) Commander.
- (6) Lieutenant commander.
- (7) Lieutenant.
- (8) Lieutenant (junior grade).
- (9) Ensign.

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

(c) *ANNUAL COMPUTATION OF NUMBER IN GRADE.*—

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

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

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

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

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

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

SEC. 215. NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

[33 U.S.C. 3005]

[Effective]

(a) *IN GENERAL.*—Effective October 1, 2009, the total number of authorized commissioned officers on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration shall be increased from 321 to 379 if—

- (1) the Secretary has submitted to the Congress—
 - (A) the Administration’s ship recapitalization plan for fiscal years 2010 through 2024;
 - (B) the Administration’s aircraft modernization plan;
 - and
 - (C) supporting workforce management plans;
- (2) appropriated funding is available; and
- (3) the Secretary has justified organizational needs for the commissioned corps for each such fiscal year.

(b) *POSITIONS OF IMPORTANCE AND RESPONSIBILITY.*—Officers serving in positions designated under section 228 and officers recalled from retired status—

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

(2) may not count against such number.

SEC. 216. OBLIGATED SERVICE REQUIREMENT.

(a) *IN GENERAL.*—

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

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

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

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

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

(3) *DISCHARGE IN BANKRUPTCY.*—A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (a)(2) does not discharge the individual signing the agreement from a debt arising under such agreement.

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

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

(2) is—

(A) not physically qualified for appointment; and

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

SEC. 217. TRAINING AND PHYSICAL FITNESS.

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

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

(2) Providing officers and officer candidates with books and school supplies.

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

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

SEC. 218. USE OF RECRUITING MATERIALS FOR PUBLIC RELATIONS.

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

[SEC. 221. ORIGINAL APPOINTMENTS.

[33 U.S.C. 3021]

[(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, 1 1/2 years of service.

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

SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINTMENTS.**(a) ORIGINAL APPOINTMENTS.—****(1) GRADES.—**

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

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

(ii) the commissioned officer corps of the Administration.

(B) APPOINTMENT OF OFFICER CANDIDATES.—

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

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

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

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

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

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

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

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

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

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

(3) DEFINITIONS.—*In this subsection:*

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

(i) California Maritime Academy, Vallejo, California.

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

(iii) Maine Maritime Academy, Castine, Maine.

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

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

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

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

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

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

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

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

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

(b) *REAPPOINTMENT.—*

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

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

(c) *QUALIFICATIONS.—An appointment under subsection (a) or (b) may not be given to an individual until the individual’s mental, moral, physical, and professional fitness to perform the duties of an officer has been established under such regulations as the Secretary shall prescribe.*

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

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

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

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

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

[SEC. 222. PERSONNEL BOARDS.

[33 U.S.C. 3022]

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

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

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

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

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

SEC. 222. PERSONNEL BOARDS.

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

(b) *MEMBERSHIP.*—

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

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

(3) *NO MEMBERSHIP ON 2 SUCCESSIVE BOARDS.*—No officer may be a member of 2 successive personnel boards convened to consider officers of the same grade for promotion or separation.

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

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

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

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

SEC. 226. APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.

[33 U.S.C. 3026]

[Appointments]

(a) *IN GENERAL.*—Appointments in and promotions to all permanent grades shall be made by the President.

(b) *DELEGATION OF APPOINTMENT AUTHORITY.*—If the President delegates authority to the Secretary to make appointments under this section, the President shall, during a period in which the position of the Secretary is vacant, delegate such authority to the Deputy Secretary of Commerce or the Under Secretary for Oceans and Atmosphere during such period.

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

* * * * *

[SEC. 229. TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY.

[33 U.S.C. 3029]

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

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

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

SEC. 229. TEMPORARY APPOINTMENTS.

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

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

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

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

(e) **DELEGATION OF APPOINTMENT AUTHORITY.**—*If the President delegates authority to the Secretary to make appointments under this section, the President shall, during a period in which the posi-*

tion of the Secretary is vacant, delegate such authority to the Deputy Secretary of Commerce or the Under Secretary for Oceans and Atmosphere during such period.

SEC. 234. OFFICER CANDIDATES.

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

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

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

(d) **AGREEMENT.**—

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

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

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

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

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

(ii) will serve on active duty for at least 4 years immediately after such appointment.

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

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

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

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

SEC. 235. PROCUREMENT OF PERSONNEL.

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

SEC. 241. INVOLUNTARY RETIREMENT OR SEPARATION.

[33 U.S.C. 3041]

(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.

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

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

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

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

SEC. 242. SEPARATION PAY.

[33 U.S.C. 3042]

(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.

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

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

(2) *requests removal from the list of selectees.*

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

[33 U.S.C. 3071]

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

(1) Chapter 40, relating to leave.

(2) Section 533(b), relating to constructive service.

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

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

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

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

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

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

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

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

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

[(11)](12) *Chapter 58, relating to the Benefits and Services for members being separated or recently separated.*

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

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

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

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

~~[(11)]~~(17) Chapter 73, relating to annuities based on retired or retainer pay.

~~[(12)]~~(18) Subchapter II of chapter 75, relating to death benefits.

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

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

~~[(13)]~~(21) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.

~~[(14)]~~(22) Sections 2731 and 2735, relating to property loss incident to service.

~~[(15)]~~(23) Section 2771, relating to final settlement of accounts of deceased members.

~~[(16)]~~(24) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) REFERENCES.—The authority vested by title 10, United States Code, in the “military departments”, “the Secretary concerned”, or “the Secretary of Defense” with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary’s designee. *For purposes of paragraph (8) of subsection (a), the term “Inspector General” in section 1034 of such title 10 shall mean the Inspector General of the Department of Commerce.”*

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

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

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

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

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

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

(4) Section 414(a)(2), relating to personal money allowance while serving as Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

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

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

(b) REFERENCES.—The authority vested by title 37, United States Code, in the “military departments”, “the Secretary concerned”, or

“the Secretary of Defense” with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary’s designee.

SEC. 267. EDUCATION LOAN REPAYMENT PROGRAM.

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

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

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

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

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

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

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

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

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

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

(d) *LOAN REPAYMENTS.*—

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

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

(e) *ACTIVE DUTY SERVICE OBLIGATION.*—

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

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

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

(B) *MINIMUM OBLIGATION.*—The regulations prescribed under subparagraph (A) may not provide for a period of obligation of less than 1 year for each maximum annual amount, or portion thereof, paid on behalf of the person for qualified loans.

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

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

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

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

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

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

SEC. 268. INTEREST PAYMENT PROGRAM.

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

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

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

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

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

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

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

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

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

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

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

(B) to reimburse the Secretary of Education for any reasonable administrative costs incurred by the Secretary in coordinating the program under this section with the administration of the student loan programs under parts B, D, and E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.).

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

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

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

(1) a baccalaureate degree in not more than 5 academic years;

or

(2) a postbaccalaureate degree.

(b) *ELIGIBLE PERSONS.*—

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

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

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

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

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

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

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

(i) up to 3 years if the person received less than 3 years of assistance; and

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

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

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

(2) *The cost of books.*

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

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

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

(e) *DURATION OF ASSISTANCE.*—*Financial assistance may be provided to a person under subsection (a) for not more than 5 consecutive academic years.*

(f) *SUBSISTENCE ALLOWANCE.*—

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

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

(g) *INITIAL CLOTHING ALLOWANCE.*—

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

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

(h) *TERMINATION OF FINANCIAL ASSISTANCE.*—

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

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

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

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

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

unserved portion of active duty bears to the total period of active duty the officer agreed to serve under the agreement.

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

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

(B) is—

(i) not physically qualified for appointment; and

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

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

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

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

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

(a) **IN GENERAL.**—*In any case in which the Secretary accepts an application for a position of employment with the Administration and limits consideration of applications for such position to applications submitted by individuals serving in a career or career-conditional position in the competitive service within the Administration, the Secretary shall deem an officer who has served as an officer in the commissioned officer corps for at least 3 years to be serving in a career or career-conditional position in the competitive service within the Administration for purposes of such limitation.*

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

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

COAST GUARD AUTHORIZATION ACT OF 2015

[Public Law 114–120; 130 Stat. 27]

[SEC. 217. TRANSFER OF FUNDS NECESSARY TO PROVIDE MEDICAL CARE.

[(a) TRANSFER REQUIRED.—*In lieu of the reimbursement required under section 1085 of title 10, United States Code, the Sec-*

retary of Homeland Security shall transfer to the Secretary of Defense an amount that represents the actuarial valuation of treatment or care—

[(1) that the Department of Defense shall provide to members of the Coast Guard, former members of the Coast Guard, and dependents of such members and former members (other than former members and dependents of former members who are a Medicare-eligible beneficiary or for whom the payment for treatment or care is made from the Medicare-Eligible Retiree Health Care Fund) at facilities under the jurisdiction of the Department of Defense or a military department; and

[(2) for which a reimbursement would otherwise be made under section 1085.

[(b) AMOUNT.—The amount transferred under subsection (a) shall be—

[(1) in the case of treatment or care to be provided to members of the Coast Guard and their dependents, derived from amounts appropriated for the operating expenses of the Coast Guard;

[(2) in the case of treatment or care to be provided former members of the Coast Guard and their dependents, derived from amounts appropriated for retired pay;

[(3) determined under procedures established by the Secretary of Defense;

[(4) transferred during the fiscal year in which treatment or care is provided; and

[(5) subject to adjustment or reconciliation as the Secretaries determine appropriate during or promptly after such fiscal year in cases in which the amount transferred is determined excessive or insufficient based on the services actually provided.

[(c) NO TRANSFER WHEN SERVICE IN NAVY.—No transfer shall be made under this section for any period during which the Coast Guard operates as a service in the Navy.

[(d) RELATIONSHIP TO TRICARE.—This section shall not be construed to require a payment for, or the transfer of an amount that represents the value of, treatment or care provided under any TRICARE program.]

SEC. 522. TRANSFER AND DISPOSITION OF PROPERTY.

(a) TRANSFER.—To further accomplish the settlement of land claims under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Secretary of Commerce shall, subject to paragraph (2), and notwithstanding section 105(a) of the Pribilof Islands Transition Act (16 U.S.C. 1161 note; Public Law 106-562), convey all right, title, and interest in the following property to the Alaska native village corporation for St. Paul Island:

(1) [Lots] *Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, lots 4, 5, and 6A, Block 18, Tract A, U.S. Survey 4943, Alaska, the plat of which was Officially Filed on January 20, 2004, aggregating 13,006 square feet (0.30 acres).*

(2) On the termination of the license described in subsection (b)(3), T. 35 S., R. 131 W., Seward Meridian, Alaska, Tract 43, the plat of which was Officially Filed on May 14, 1986, containing 84.88 acres.

(b) FEDERAL USE.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may operate, maintain, keep, locate, inspect, repair, and replace any Federal aid to navigation located on the property described in subsection (a) as long as the aid is needed for navigational purposes.

(2) ADMINISTRATION.—In carrying out subsection (a), the Secretary may enter the property, at any time for as long as the aid is needed for navigational purposes, without notice to the extent that it is not practicable to provide advance notice.

(3) LICENSE.—The Secretary of the Department in which the Coast Guard is operating may maintain a license in effect on the date of the enactment of this Act with respect to the real property and improvements under subsection (a) until the termination of the license.

(4) REPORTS.—Not later than 2 years after the date of the enactment of this Act and not less than once every 2 years thereafter, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on—

(A) efforts taken to remediate contaminated soils on tract 43 described in subsection (a)(2);

(B) a schedule for the completion of contaminated soil remediation on tract 43; and

(C) any use of tract 43 to carry out Coast Guard navigation activities.

(c) AGREEMENT ON TRANSFER OF OTHER PROPERTY ON ST. PAUL ISLAND.—

(1) IN GENERAL.—In addition to the property transferred under subsection (a), not later than 60 days after the date of the enactment of this Act, the Secretary of Commerce and the presiding officer of the Alaska native village corporation for St. Paul Island shall enter into an agreement to exchange of property on Tracts 50 and 38 on St. Paul Island and to finalize the recording of deeds, to reflect the boundaries and ownership of Tracts 50 and 38 as depicted on a survey of the National Oceanic and Atmospheric Administration, to be filed with the Office of the Recorder for the Department of Natural Resources for the State of Alaska.

(2) EASEMENTS.—The survey described in subsection (a) shall include respective easements granted to the Secretary and the Alaska native village corporation for the purpose of utilities, drainage, road access, and salt lagoon conservation.

HIGHER EDUCATION ACT OF 1965

[Public Law 89-329; 79 Stat. 1219]

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

[20 U.S.C. 1078]

* * * * *

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

(1) **AUTHORITY.**—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, or section 264 of the *National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002* for the payment of interest and any special allowance on a loan to a member of the Armed Forces or an officer in the commissioned officer corps of the *National Oceanic and Atmospheric Administration*, respectively, that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any special allowance on such a loan out of any funds other than funds that have been so transferred.

(2) **FORBEARANCE.**—During the period in which the Secretary is making payments on a loan under paragraph (1), the lender shall grant the borrower forbearance in accordance with the guaranty agreement under subsection (c)(3)(A)(i)(IV).

(3) **SPECIAL ALLOWANCE DEFINED.**—For the purposes of this subsection, the term “special allowance”, means a special allowance that is payable with respect to a loan under section 438.

SEC. 455. TERMS AND CONDITIONS OF LOANS.

[20 U.S.C. 1087e]

* * * * *

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

(1) **AUTHORITY.**—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, or section 264 of the *National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002* for the payment of interest on a loan made under this part to a member of the Armed Forces or an officer in the commissioned officer corps of the *National Oceanic and Atmospheric Administration*, respectively, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) **FORBEARANCE.**—During the period in which the Secretary is making payments on a loan under paragraph (1), the Secretary shall grant the borrower forbearance, in the form of a temporary cessation of all payments on the loan other than the payments of interest on the loan that are made under that paragraph. * * *

SEC. 464. TERMS OF LOANS.

[20 U.S.C. 1087dd]

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

(1) **AUTHORITY.**—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, or

section 264 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 for the payment of interest on a loan made under this part to a member of the Armed Forces or an officer in the commissioned officer corps of the National Oceanic and Atmospheric Administration, respectively, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(1)(C).

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HYDROELECTRIC SERVICES IMPROVEMENT ACT OF 1998

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

[33 U.S.C. 892d]

【There are】

(a) *IN GENERAL.*—*There are* authorized to be appropriated to the Administrator the following:

(1) To carry out nautical mapping and charting functions under sections 304 and 305, except for conducting hydrographic 【surveys—】

【(A) \$55,000,000 for fiscal year 2009;

【(B) \$56,000,000 for fiscal year 2010;

【(C) \$57,000,000 for fiscal year 2011; and

【(D) \$58,000,000 for fiscal year 2012.】

surveys, \$70,814,000 for each of fiscal years 2016 through 2020.

(2) To contract for hydrographic surveys under section 304(b)(1), including the leasing or time chartering of 【vessels—】

【(A) \$32,130,000 for fiscal year 2009;

【(B) \$32,760,000 for fiscal year 2010;

【(C) \$33,390,000 for fiscal year 2011; and

【(D) \$34,020,000 for fiscal year 2012.】

vessels, \$25,000,000 for each of fiscal years 2016 through 2020.

(3) To operate hydrographic survey vessels owned by the United States and operated by the 【Administration—】

【(A) \$25,900,000 for fiscal year 2009;

【(B) \$26,400,000 for fiscal year 2010;

【(C) \$26,900,000 for fiscal year 2011; and

【(D) \$27,400,000 for fiscal year 2012.】

Administration, \$29,932,000 for each of fiscal years 2016 through 2020.

(4) To carry out geodetic functions under this 【title—】

【(A) \$32,640,000 for fiscal year 2009;

【(B) \$33,280,000 for fiscal year 2010;

【(C) \$33,920,000 for fiscal year 2011; and

【(D) \$34,560,000 for fiscal year 2012.】

title, \$26,800,000 for each of fiscal years 2016 through 2020.

(5) To carry out tide and current measurement functions under this [title—]

[(A) \$27,000,000 for fiscal year 2009;

[(B) \$27,500,000 for fiscal year 2010;

[(C) \$28,000,000 for fiscal year 2011; and

[(D) \$28,500,000 for fiscal year 2012.]

title, \$30,564,000 for each of fiscal years 2016 through 2020.

(6) To acquire a replacement hydrographic survey vessel capable of staying at sea continuously for at least 30 days \$75,000,000.

(b) *ARCTIC PROGRAMS.—Of the amount authorized by this section for each fiscal year—*

(1) *\$10,000,000 is authorized for use—*

(A) to acquire hydrographic data;

(B) to provide hydrographic services;

(C) to conduct coastal change analyses necessary to ensure safe navigation;

(D) to improve the management of coastal change in the Arctic; and

(E) to reduce risks of harm to Alaska Native subsistence and coastal communities associated with increased international maritime traffic; and

(2) *\$2,000,000 is authorized for use to acquire hydrographic data and provide hydrographic services in the Arctic necessary to delineate the United States extended Continental Shelf.*

(c) *LIMITATION ON ADMINISTRATIVE EXPENSES FOR SURVEYS.—Of amounts authorized by this section for each fiscal year for contract hydrographic surveys, not more than 5 percent is authorized for administrative costs associated with contract management.*