

Calendar No. 551

112TH CONGRESS
2^D SESSION

S. 2388

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

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2012

Mr. BEGICH (for himself, Mr. INOUE, Ms. SNOWE, Ms. MURKOWSKI, Mr. WHITEHOUSE, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

[Strike out all after the enacting clause and insert the part printed in italic]

NOVEMBER 14, 2012

Reported by Mr. ROCKEFELLER, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

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

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

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “National Oceanic and Atmospheric Administration Com-
 4 missioned Officer Corps Amendments Act of 2012”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Strength and distribution in grade.
- Sec. 3. Exclusion of officers recalled from retired status and positions of impor-
 tance and responsibility from number of authorized commis-
 sioned officers.
- Sec. 4. Obligated service requirement.
- Sec. 5. Training and physical fitness.
- Sec. 6. Appointments.
- Sec. 7. Personnel boards.
- Sec. 8. Temporary appointments.
- Sec. 9. Officer candidates.
- Sec. 10. Involuntary retirement or separation.
- Sec. 11. Separation pay.
- Sec. 12. Applicability of certain provisions of title 10, United States Code.
- Sec. 13. Education loan repayment program.
- Sec. 14. Interest payment program.
- Sec. 15. Student pre-commissioning education assistance program.
- Sec. 16. Applicability of certain provisions of title 37, United States Code.
- Sec. 17. Application of certain provisions of competitive service law.
- Sec. 18. Eligibility of all members of uniformed services for Legion of Merit
 award.
- Sec. 19. Application of Employment and Reemployment Rights of Members of
 the Uniformed Services to members of commissioned officer
 corps.
- Sec. 20. Protected communications for members of uniformed services and pro-
 hibition of retaliatory personnel actions.
- Sec. 21. Criminal penalties for wearing uniform without authority.
- Sec. 22. Report on status of officers in commissioned officer corps of National
 Oceanic and Atmospheric Administration and Public Health
 Service during Government shutdowns.
- Sec. 23. Technical correction.

7 **SEC. 2. STRENGTH AND DISTRIBUTION IN GRADE.**

8 Section 214 of the National Oceanic and Atmospheric
 9 Administration Commissioned Officer Corps Act of 2002
 10 (~~33~~ U.S.C. 3004) is amended to read as follows:

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

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

5 “(1) Vice admiral.

6 “(2) Rear admiral.

7 “(3) Rear admiral (lower half).

8 “(4) Captain.

9 “(5) Commander.

10 “(6) Lieutenant commander.

11 “(7) Lieutenant.

12 “(8) Lieutenant (junior grade).

13 “(9) Ensign.

14 “(b) PROPORTION.—

15 “(1) IN GENERAL.—The officers on the lineal
16 list shall be distributed in grade in the following per-
17 centages:

18 “(A) 8 in the grade of captain.

19 “(B) 14 in the grade of commander.

20 “(C) 19 in the grade of lieutenant com-
21 mander.

22 “(2) GRADES BELOW LIEUTENANT COM-
23 MANDER.—The Secretary shall prescribe, with re-
24 spect to the distribution on the lineal list in grade,
25 the percentages applicable to the grades of lieuten-
26 ant, lieutenant (junior grade), and ensign.

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

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

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

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

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

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

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

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

8 **SEC. 3. EXCLUSION OF OFFICERS RECALLED FROM RE-**
9 **TIRED STATUS AND POSITIONS OF IMPOR-**
10 **TANCE AND RESPONSIBILITY FROM NUMBER**
11 **OF AUTHORIZED COMMISSIONED OFFICERS.**

12 Section 215 of the National Oceanic and Atmospheric
13 Administration Commissioned Officer Corps Act of 2002
14 (33 U.S.C. 3005) is amended—

15 (1) in the matter before paragraph (1), by
16 striking “Effective” and inserting the following:

17 “(a) IN GENERAL.—Effective”; and

18 (2) by adding at the end the following new sub-
19 section:

20 “(b) POSITIONS OF IMPORTANCE AND RESPONSI-
21 BILITY.—Officers serving in positions designated under
22 section 228 and officers recalled from retired status—

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

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

2 **SEC. 4. OBLIGATED SERVICE REQUIREMENT.**

3 (a) **IN GENERAL.**—Subtitle A of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.) is amended by adding at the end the following:

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

8 “(a) **IN GENERAL.**—

9 “(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.

14 “(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.

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

22 “(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

1 the total costs of the training provided to that offi-
 2 cer by the Secretary as the unserved portion of ac-
 3 tive duty bears to the total period of active duty the
 4 officer agreed to serve.

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

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

15 “(e) WAIVER OR SUSPENSION OF COMPLIANCE.—
 16 The Secretary may waive the service obligation of an offi-
 17 cer who—

18 “(1) becomes unqualified to serve on active
 19 duty in the commissioned officer corps of the Ad-
 20 ministration because of a circumstance not within
 21 the control of that officer; or

22 “(2) is—

23 “(A) not physically qualified for appoint-
 24 ment; and

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

6 (b) **CLERICAL AMENDMENT.**—The table of sections
 7 in section 1 of the Act entitled “An Act to authorize the
 8 Hydrographic Service Improvement Act of 1998, and for
 9 other purposes” (Public Law 107–372) is amended by in-
 10 sserting after the item relating to section 215 the following:
 “Sec. 216. Obligated service requirement.”.

11 **SEC. 5. TRAINING AND PHYSICAL FITNESS.**

12 (a) **IN GENERAL.**—Subtitle A of title II of the Na-
 13 tional Oceanic and Atmospheric Administration Commis-
 14 sioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.),
 15 as amended by section 5, is further amended by adding
 16 at the end the following:

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

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

24 “(1) Carrying out training programs and cor-
 25 respondence courses, including establishing and op-

1 erating a basic officer training program to provide
 2 initial indoctrination and maritime vocational train-
 3 ing for officer candidates as well as refresher train-
 4 ing, mid-career training, aviation training, and such
 5 other training as the Secretary considers necessary
 6 for officer development and proficiency.

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

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

11 “(b) PHYSICAL FITNESS.—The Secretary shall en-
 12 sure that officers maintain a high physical state of readi-
 13 ness in preparation for functioning as a service in the
 14 Navy during times of war, including by establishing stand-
 15 ards of physical fitness for officers that are substantially
 16 equivalent to those prescribed for officers in the Navy.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
 18 in section 1 of the Act entitled “An Act to authorize the
 19 Hydrographic Service Improvement Act of 1998, and for
 20 other purposes” (Public Law 107–372), as amended by
 21 section 5(b), is further amended by inserting after the
 22 item relating to section 216, as added by such section
 23 5(b), the following:

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

24 **SEC. 6. APPOINTMENTS.**

25 (a) ORIGINAL APPOINTMENTS.—

1 (1) IN GENERAL.—Section 221 of the National
 2 Oceanic and Atmospheric Administration Commis-
 3 sioned Officer Corps Act of 2002 (33 U.S.C. 3021)
 4 is amended to read as follows:

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

7 “(a) ORIGINAL APPOINTMENTS.—

8 “(1) GRADES.—

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

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

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

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

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

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

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

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

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

18 “(C) Licensed officers of the United States
19 merchant marine who have served 2 or more
20 years aboard a vessel of the United States in
21 the capacity of a licensed officer, who otherwise
22 meet the academic standards for enrollment in
23 the training program described in subparagraph
24 (A).

1 “(3) MILITARY SERVICE ACADEMIES OF THE
2 UNITED STATES DEFINED.—In this subsection, the
3 term ‘military service academies of the United
4 States’ means the following:

5 “(A) The United States Military Academy,
6 West Point, New York.

7 “(B) The United States Naval Academy,
8 Annapolis, Maryland.

9 “(C) The United States Air Force Acad-
10 emy, Colorado Springs, Colorado.

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

13 “(E) The United States Merchant Marine
14 Academy, Kings Point, New York.

15 “(b) REAPPOINTMENT.—

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

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

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

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

14 (2) CLERICAL AMENDMENT.—The table of sec-
 15 tions in section 1 of the Act entitled “An Act to au-
 16 thorize the Hydrographic Service Improvement Act
 17 of 1998, and for other purposes” (Public Law 107-
 18 372) is amended by striking the item relating to sec-
 19 tion 221 and inserting the following:

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

20 (b) APPOINTMENTS TO PERMANENT GRADES.—Sec-
 21 tion 226 of such Act (33 U.S.C. 3026) is amended by
 22 striking “Appointments” and all that follows and inserting
 23 the following:

24 “(a) HIGHER GRADES.—Original appointments
 25 under section 221 in and promotions to the grades of lieu-

1 tenant commander and above shall be made by the Presi-
2 dent, by and with the advice and consent of the Senate.

3 “(b) LOWER GRADES.—Original appointments under
4 section 221 in and promotions to the grades of ensign
5 through lieutenant shall be made by the President alone.”.

6 **SEC. 7. PERSONNEL BOARDS.**

7 Section 222 of the National Oceanic and Atmospheric
8 Administration Commissioned Officer Corps Act of 2002
9 (~~33~~ U.S.C. 3022) is amended to read as follows:

10 **“SEC. 222. PERSONNEL BOARDS.**

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

15 “(b) MEMBERSHIP.—

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

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

23 “(3) NO MEMBERSHIP ON 2 SUCCESSIVE
24 BOARDS.—No officer may be a member of 2 succes-

1 sive personnel boards convened to consider officers
2 of the same grade for promotion or separation.

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

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

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

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

20 **SEC. 8. TEMPORARY APPOINTMENTS.**

21 Section 229 of the National Oceanic and Atmospheric
22 Administration Commissioned Officer Corps Act of 2002
23 (~~33~~ U.S.C. 3029) is amended to read as follows:

1 **“SEC. 229. TEMPORARY APPOINTMENTS.**

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

5 “(b) **TERMINATION.**—A temporary appointment to a
6 position under subsection (a) shall terminate upon ap-
7 proval of a permanent appointment for such position made
8 by the President alone.

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

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

21 **SEC. 9. OFFICER CANDIDATES.**

22 (a) **IN GENERAL.**—Subtitle B of title II of the Na-
23 tional Oceanic and Atmospheric Administration Commis-
24 sioned Officer Corps Act of 2002 (33 U.S.C. 3021 et seq.)
25 is amended by adding at the end the following:

1 **“SEC. 234. OFFICER CANDIDATES.**

2 “(a) DETERMINATION OF NUMBER.—The Secretary
3 shall determine the number of appointments of officer can-
4 didates.

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

12 “(c) DISMISSAL.—The Secretary may dismiss from
13 the basic officer training program of the Administration
14 any officer candidate who, during the officer candidate’s
15 term as an officer candidate, the Secretary considers un-
16 satisfactory in either academics or conduct, or not adapted
17 for a career in the commissioned officer corps of the Ad-
18 ministration. Officer candidates shall be subject to rules
19 governing discipline prescribed by the Director of the Na-
20 tional Oceanic and Atmospheric Administration Commis-
21 sioned Officer Corps.

22 “(d) AGREEMENT.—

23 “(1) IN GENERAL.—Each officer candidate
24 shall sign an agreement with the Secretary in ac-
25 cordance with section 216(a)(2) regarding the officer

1 candidate's term of service in the commissioned offi-
2 cer corps of the Administration.

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

6 ~~“(A) That the officer candidate will com-~~
7 ~~plete the course of instruction at the basic offi-~~
8 ~~cer training program of the Administration.~~

9 ~~“(B) That upon graduation from the such~~
10 ~~program, the officer candidate—~~

11 ~~“(i) will accept an appointment, if~~
12 ~~tendered, as an officer; and~~

13 ~~“(ii) will serve on active duty for at~~
14 ~~least 4 years immediately after such ap-~~
15 ~~pointment.~~

16 ~~“(e) REGULATIONS.—The Secretary shall prescribe~~
17 ~~regulations to carry out this section. Such regulations~~
18 ~~shall include—~~

19 ~~“(1) standards for determining what constitutes~~
20 ~~a breach of an agreement signed under such sub-~~
21 ~~section (d)(1); and~~

22 ~~“(2) procedures for determining whether such a~~
23 ~~breach has occurred.~~

24 ~~“(f) REPAYMENT.—An officer candidate or former~~
25 ~~officer candidate who does not fulfill the terms of the obli-~~

1 gation to serve as specified under section (d) shall be sub-
 2 ject to the repayment provisions of section 216(b).”.

3 (b) CLERICAL AMENDMENT.—The table of sections
 4 in section 1 of the Act entitled “An Act to authorize the
 5 Hydrographic Service Improvement Act of 1998, and for
 6 other purposes” (Public Law 107–372) is amended by in-
 7 serting after the item relating to section 233 the following:
 “Sec. 234. Officer candidates.”.

8 (c) OFFICER CANDIDATE DEFINED.—Section 212 of
 9 such Act (33 U.S.C. 3002) is amended—

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

12 (2) by inserting after paragraph (4) the fol-
 13 lowing:

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

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

22 “(f)(1) An officer candidate enrolled in the basic offi-
 23 cer training program of the commissioned officer corps of
 24 the National Oceanic and Atmospheric Administration is
 25 entitled, while participating in such program, to monthly

1 officer candidate pay at monthly rate equal to the basic
 2 pay of an enlisted member in the pay grade E-5 with less
 3 than two years service.

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

10 **SEC. 10. INVOLUNTARY RETIREMENT OR SEPARATION.**

11 Section 241 of the National Oceanic and Atmospheric
 12 Administration Commissioned Officer Corps Act of 2002
 13 (~~33~~ U.S.C. 3041) is amended by adding at the end the
 14 following:

15 “(d) DEFERMENT OF RETIREMENT OR SEPARATION
 16 FOR MEDICAL REASONS.—

17 “(1) IN GENERAL.—If the Secretary determines
 18 that the evaluation of the medical condition of an of-
 19 ficer requires hospitalization or medical observation
 20 that cannot be completed with confidence in a man-
 21 ner consistent with the officer’s well being before the
 22 date on which the officer would otherwise be re-
 23 quired to retire or be separated under this section,
 24 the Secretary may defer the retirement or separation
 25 of the officer.

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

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

11 **SEC. 11. SEPARATION PAY.**

12 Section 242 of the National Oceanic and Atmospheric
13 Administration Commissioned Officer Corps Act of 2002
14 (33 U.S.C. 3042) is amended by adding at the end the
15 following:

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

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

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

1 **SEC. 12. APPLICABILITY OF CERTAIN PROVISIONS OF**
 2 **TITLE 10, UNITED STATES CODE.**

3 Section 261(a) of the National Oceanic and Atmos-
 4 pheric Administration Commissioned Officer Corps Act of
 5 2002 (~~33~~ U.S.C. 3071(a)) is amended—

6 (1) by redesignating paragraphs (13) through
 7 (16) as paragraphs (20) through (23), respectively;

8 (2) by redesignating paragraphs (7) through
 9 (12) as paragraphs (12) through (17), respectively;

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

12 (4) by inserting after paragraph (3) the fol-
 13 lowing:

14 “(4) Section 771, relating to unauthorized
 15 wearing of uniforms:

16 “(5) Section 774, relating to wearing religious
 17 apparel while in uniform:

18 “(6) Section 982, relating to service on State
 19 and local juries:

20 “(7) Section 1031, relating to administration of
 21 oaths.”;

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

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

1 (6) by inserting after paragraph (17), as redese-
2 ignated, the following:

3 “(18) Subchapter I of chapter 88, relating to
4 Military Family Programs.

5 “(19) Section 2005, relating to advanced edu-
6 cation assistance, active duty agreements, and reim-
7 bursement requirements.”.

8 **SEC. 13. EDUCATION LOAN REPAYMENT PROGRAM.**

9 (a) **IN GENERAL.**—Subtitle E of title II of the Na-
10 tional Oceanic and Atmospheric Administration Commis-
11 sioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.)
12 is amended by adding at the end the following:

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

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

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

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

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

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

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

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

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

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

21 “(2) The person is enrolled as a full-time stu-
22 dent in the final year of a course of study at an ac-
23 credited educational institution (as determined by
24 the Secretary of Education) leading to a degree in

1 a profession that will meet identified skill shortages
2 in the commissioned officer corps.

3 “(d) LOAN REPAYMENTS.—

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

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

15 “(e) ACTIVE DUTY SERVICE OBLIGATION.—

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

19 “(2) LENGTH OF OBLIGATION DETERMINED
20 UNDER REGULATIONS.—

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

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

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

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

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

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

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

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

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

7 “(b) **CLERICAL AMENDMENT.**—The table of sections
8 in section 1 of the Act entitled “An Act to authorize the
9 Hydrographic Service Improvement Act of 1998, and for
10 other purposes” (Public Law 107–372) is amended by in-
11 serting after the item relating to section 266 the following:
“Sec. 267. Education loan repayment program.”.

12 **SEC. 14. INTEREST PAYMENT PROGRAM.**

13 “(a) **IN GENERAL.**—Subtitle E of title II of the Na-
14 tional Oceanic and Atmospheric Administration Commis-
15 sioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.),
16 as amended by section 13, is further amended by adding
17 at the end the following:

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

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

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

25 “(1) is serving on active duty;

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

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

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

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

9 “(1) A loan made, insured, or guaranteed under
10 part B of title IV of the Higher Education Act of
11 1965 (20 U.S.C. 1071 et seq.).

12 “(2) A loan made under part D of such title
13 (20 U.S.C. 1087a et seq.).

14 “(3) A loan made under part E of such title
15 (20 U.S.C. 1087aa et seq.).

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

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

24 “(f) COORDINATION WITH SECRETARY OF EDU-
25 CATION.—

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

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

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

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

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

24 (b) CONFORMING AMENDMENTS.—Sections 428(o),
25 455(l), and 464(j) of the Higher Education Act of 1965

1 ~~((20 U.S.C. 1078(o), 1087e(1), and 1087dd(j))~~ are each
 2 amended—

3 ~~(1) by striking the subsection heading and in-~~
 4 ~~serting “ARMED FORCES AND NOAA COMMISS-~~
 5 ~~SIONED OFFICER CORPS STUDENT LOAN INTEREST~~
 6 ~~PAYMENT PROGRAMS”;~~ and

7 ~~(2) in paragraph (1)—~~

8 ~~(A) by inserting “or section 264 of the Na-~~
 9 ~~tional Oceanic and Atmospheric Administration~~
 10 ~~Commissioned Officer Corps Act of 2002” after~~
 11 ~~“Code,”; and~~

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

16 ~~(c) CLERICAL AMENDMENT.—The table of sections~~
 17 ~~in section 1 of the Act entitled “An Act to authorize the~~
 18 ~~Hydrographic Service Improvement Act of 1998, and for~~
 19 ~~other purposes” (Public Law 107–372), as amended by~~
 20 ~~section 13(b), is further amended by inserting after the~~
 21 ~~item relating to section 267, as added by such section~~
 22 ~~13(b), the following:~~

“Sec. 268. Interest payment program.”.

1 **SEC. 15. STUDENT PRE-COMMISSIONING EDUCATION AS-**
 2 **SISTANCE PROGRAM.**

3 (a) ~~IN GENERAL.~~—Subtitle E of title II of the Na-
 4 tional Oceanic and Atmospheric Administration Commis-
 5 sioned Officer Corps Act of 2002 (~~33~~ U.S.C. 3071 et seq.);
 6 as amended by sections 13 and 14, is further amended
 7 by adding at the end the following:

8 **“SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION AS-**
 9 **SISTANCE PROGRAM.**

10 ~~“(a) AUTHORITY TO PROVIDE FINANCIAL ASSIST-~~
 11 ~~ANCE.~~—For the purpose of maintaining adequate numbers
 12 of officers of the commissioned officer corps of the Admin-
 13 istration on active duty, the Secretary may provide finan-
 14 cial assistance to a person described in subsection (b) for
 15 expenses of the person while the person is pursuing on
 16 a full-time basis at an accredited educational institution
 17 (as determined by the Secretary of Education) a program
 18 of education approved by the Secretary that leads to—

19 ~~“(1) a baccalaureate degree in not more than 5~~
 20 ~~academic years; or~~

21 ~~“(2) a postbaccalaureate degree.~~

22 ~~“(b) ELIGIBLE PERSONS.—~~

23 ~~“(1) IN GENERAL.—A person is eligible to ob-~~
 24 ~~tain financial assistance under subsection (a) if the~~
 25 ~~person—~~

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

5 “(B) meets all of the requirements for ac-
6 ceptance into the commissioned officer corps of
7 the Administration except for the completion of
8 a baccalaureate degree; and

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

11 “(2) AGREEMENT.—A written agreement re-
12 ferred to in paragraph (1)(C) is an agreement be-
13 tween the person and the Secretary in which the
14 person agrees—

15 “(A) to accept an appointment as an offi-
16 cer, if tendered; and

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

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

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

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

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

6 “(2) The cost of books.

7 “(3) In the case of a program of education
8 leading to a baccalaureate degree, laboratory ex-
9 penses.

10 “(4) Such other expenses as the Secretary con-
11 siders appropriate.

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

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

22 “(f) SUBSISTENCE ALLOWANCE.—

23 “(1) IN GENERAL.—A person who receives fi-
24 nancial assistance under subsection (a) shall be enti-
25 tled to a monthly subsistence allowance at a rate

1 prescribed under paragraph (2) for the duration of
2 the period for which the person receives such finan-
3 cial assistance.

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

9 “(g) INITIAL CLOTHING ALLOWANCE.—

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

15 “(2) APPOINTMENT.—Upon completion of the
16 program of education for which a person receives fi-
17 nancial assistance under subsection (a) and accept-
18 ance of appointment in the commissioned officer
19 corps of the Administration, the person may be
20 issued a subsequent clothing allowance equivalent to
21 that normally provided to a newly appointed officer.

22 “(h) TERMINATION OF FINANCIAL ASSISTANCE.—

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

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

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

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

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

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

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

1 “(B) is—

2 “(i) not physically qualified for ap-
3 pointment; and

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

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

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

21 “(i) REGULATIONS.—The Secretary may promulgate
22 such regulations and orders as the Secretary considers ap-
23 propriate to carry out this section.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 in section 1 of the Act entitled “An Act to authorize the

1 Hydrographic Service Improvement Act of 1998, and for
 2 other purposes” (Public Law 107–372), as amended by
 3 section 14(e), is further amended by inserting after the
 4 item relating to section 268, as added by such section
 5 14(e), the following:

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

6 **SEC. 16. APPLICABILITY OF CERTAIN PROVISIONS OF**
 7 **TITLE 37, UNITED STATES CODE.**

8 (a) IN GENERAL.—Subtitle E of title II of the Na-
 9 tional Oceanic and Atmospheric Administration Commis-
 10 sioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.),
 11 as amended by sections 13 through 15, is further amended
 12 by adding at the end the following:

13 **“SEC. 270. APPLICABILITY OF CERTAIN PROVISIONS OF**
 14 **TITLE 37, UNITED STATES CODE.**

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

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

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

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

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

8 ~~“(5) Section 428, relating to allowances for re-~~
9 ~~cruiting expenses.~~

10 ~~“(6) Section 435, relating to allowances for fu-~~
11 ~~neral honors duty.~~

12 ~~“(b) REFERENCES.—The authority vested by title 37,~~
13 ~~United States Code, in the ‘military departments’, ‘the~~
14 ~~Secretary concerned’, or ‘the Secretary of Defense’ with~~
15 ~~respect to the provisions of law referred to in subsection~~
16 ~~(a) shall be exercised, with respect to the commissioned~~
17 ~~officer corps of the Administration when the commissioned~~
18 ~~officer corps is not operating as a service in the Navy,~~
19 ~~by the Secretary of Commerce or the Secretary’s des-~~
20 ~~ignee.”.~~

21 ~~(b) CLERICAL AMENDMENT.—The table of sections~~
22 ~~in section 1 of the Act entitled “An Act to authorize the~~
23 ~~Hydrographic Service Improvement Act of 1998, and for~~
24 ~~other purposes” (Public Law 107–372), as amended by~~
25 ~~section 15(b), is further amended by inserting after the~~

1 item relating to section 269, as added by such section
2 15(b), the following:

“Sec. 270. Applicability of certain provisions of title 37, United States Code.”.

3 **SEC. 17. APPLICATION OF CERTAIN PROVISIONS OF COM-**
4 **PETITIVE SERVICE LAW.**

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

7 (1) in paragraph (1), by inserting “and mem-
8 bers of the commissioned officer corps of the Na-
9 tional Oceanic and Atmospheric Administration (or
10 its predecessor organization the Coast and Geodetic
11 Survey) separated from such uniformed service”
12 after “separated from the armed forces”;

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

15 (3) in paragraph (4), by inserting “and mem-
16 bers of the commissioned officer corps of the Na-
17 tional Oceanic and Atmospheric Administration (or
18 its predecessor organization the Coast and Geodetic
19 Survey) separated from such uniformed service”
20 after “separated from the armed forces”.

21 **SEC. 18. ELIGIBILITY OF ALL MEMBERS OF UNIFORMED**
22 **SERVICES FOR LEGION OF MERIT AWARD.**

23 Section 1121 of title 10, United States Code, is
24 amended by striking “armed forces” and inserting “uni-
25 formed services”.

1 **SEC. 19. APPLICATION OF EMPLOYMENT AND REEMPLOY-**
 2 **MENT RIGHTS OF MEMBERS OF THE UNI-**
 3 **FORMED SERVICES TO MEMBERS OF COM-**
 4 **MISSIONED OFFICER CORPS.**

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

9 **SEC. 20. PROTECTED COMMUNICATIONS FOR MEMBERS OF**
 10 **UNIFORMED SERVICES AND PROHIBITION OF**
 11 **RETALIATORY PERSONNEL ACTIONS.**

12 (a) **IN GENERAL.**—Section 1034 of title 10, United
 13 States Code, is amended—

14 (1) in subsections (a) through (e), by striking
 15 “the armed forces” each places it appears and in-
 16 serting “the uniformed services”;

17 (2) in subsection (e)(5)—

18 (A) by striking “Department of Defense,
 19 or” and inserting “Department of Defense (in
 20 the case of a member of the armed forces),”;
 21 and

22 (B) by inserting “the Inspector General of
 23 the Department of Commerce (in the case of a
 24 member of the Commissioned Office Corps of
 25 the National Oceanic and Atmospheric Admin-
 26 istration); or the Inspector General of the De-

1 partment of Health and Human Services (in
2 the case of a member of the commissioned
3 corps of the Public Health Service)” after
4 “Navy);”;

5 (3) in subsection (e), in paragraphs (1) and (3),
6 by striking “to the Secretary of Defense (or to the
7 Secretary of Homeland Security in the case of a
8 member of the Coast Guard when the Coast Guard
9 is not operating as a service in the Navy)” both
10 places it appears and inserting “to the Secretary of
11 Defense (in the case of a member of the armed
12 forces); to the Secretary of Homeland Security (in
13 the case of a member of the Coast Guard when the
14 Coast Guard is not operating as a service in the
15 Navy); to the Secretary of Commerce (in the case of
16 a member of the Commissioned Office Corps of the
17 National Oceanic and Atmospheric Administration);
18 or the Secretary of Health and Human Services (in
19 the case of a member of the commissioned corps of
20 the Public Health Service)”;

21 (4) in subsection (h)—

22 (A) by striking “and” after “of Defense;”;

23 and

24 (B) by inserting “the Secretary of Com-
25 merce with respect to the commissioned officer

1 corps of the National Oceanic and Atmospheric
2 Administration, and the Secretary of Health
3 and Human Services with respect to the com-
4 missioned corps of the Public Health Service”
5 after “Navy,”; and

6 ~~(5)~~ in subsection (i)—

7 (A) in subparagraph (A), by inserting “, in
8 the case of a member of the armed forces” be-
9 fore the period at the end; and

10 (B) by striking subparagraph (C) and in-
11 serting the following:

12 “(C) The Inspector General of the Depart-
13 ment of Commerce, in the case of a member of
14 the commissioned officer corps of the National
15 Oceanic and Atmospheric Administration.

16 “(D) The Inspector General of the Depart-
17 ment of Health and Human Services, in the
18 case of a member of the commissioned corps of
19 the Public Health Service.

20 “(E) Any officer of the uniformed services
21 or employee of the Department of Defense, the
22 Department of Commerce, or the Department
23 of Health and Human Services who is assigned
24 or detailed to serve as an Inspector General at
25 any level in the Department of Defense, De-

1 partment of Commerce, or Department of
2 Health and Human Services.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall apply with respect to any unfavorable
5 personnel action taken or threatened, and any withholding
6 of or threat to withhold a favorable personnel action, on
7 or after the date of the enactment of this Act.

8 **SEC. 21. CRIMINAL PENALTIES FOR WEARING UNIFORM**
9 **WITHOUT AUTHORITY.**

10 Section 702 of title 18, United States Code, is
11 amended by striking “Service or any” and inserting “Serv-
12 ice, the commissioned officer corps of the National Oee-
13 anic and Atmospheric Administration, or any”.

14 **SEC. 22. REPORT ON STATUS OF OFFICERS IN COMMIS-**
15 **SIGNED OFFICER CORPS OF NATIONAL OCE-**
16 **ANIC AND ATMOSPHERIC ADMINISTRATION**
17 **AND PUBLIC HEALTH SERVICE DURING GOV-**
18 **ERNMENT SHUTDOWNS.**

19 Not later than 60 days after the date of the enact-
20 ment of this Act, the Attorney General shall submit to
21 Congress a report that details whether officers of the com-
22 missioned officer corps of the National Oceanic and At-
23 mospheric Administration and the Public Health Service
24 are treated as performing an essential level of activity to

1 protect life and property during any period of a lapse in
 2 appropriations.

3 **SEC. 23. TECHNICAL CORRECTION.**

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

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

8 (a) *SHORT TITLE.*—*This Act may be cited as the “Na-*
 9 *tional Oceanic and Atmospheric Administration Commis-*
 10 *sioned Officer Corps Amendments Act of 2012”.*

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

Sec. 1. Short title; table of contents.

Sec. 2. Strength and distribution in grade.

Sec. 3. Exclusion of officers recalled from retired status and positions of impor-
tance and responsibility from number of authorized commis-
sioned officers.

Sec. 4. Obligated service requirement.

Sec. 5. Training and physical fitness.

Sec. 6. Appointments.

Sec. 7. Personnel boards.

Sec. 8. Temporary appointments.

Sec. 9. Officer candidates.

Sec. 10. Involuntary retirement or separation.

Sec. 11. Separation pay.

Sec. 12. Applicability of certain provisions of title 10, United States Code.

Sec. 13. Education loan repayment program.

Sec. 14. Interest payment program.

Sec. 15. Student pre-commissioning education assistance program.

Sec. 16. Limitation on educational assistance.

Sec. 17. Applicability of certain provisions of title 37, United States Code.

Sec. 18. Application of certain provisions of competitive service law.

Sec. 19. Eligibility of all members of uniformed services for Legion of Merit
award.

Sec. 20. Application of Employment and Reemployment Rights of Members of the
Uniformed Services to members of commissioned officer corps.

Sec. 21. Protected communications for commissioned officer corps and prohibition
of retaliatory personnel actions.

Sec. 22. Criminal penalties for wearing uniform without authority.

Sec. 23. Report on status of officers in commissioned officer corps of National Oceanic and Atmospheric Administration and Public Health Service during Government shutdowns.

Sec. 24. Technical correction.

Sec. 25. Report.

Sec. 26. Effective date.

1 **SEC. 2. STRENGTH AND DISTRIBUTION IN GRADE.**

2 *Section 214 of the National Oceanic and Atmospheric*
 3 *Administration Commissioned Officer Corps Act of 2002*
 4 *(33 U.S.C. 3004) is amended to read as follows:*

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

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

9 *“(1) Vice admiral.*

10 *“(2) Rear admiral.*

11 *“(3) Rear admiral (lower half).*

12 *“(4) Captain.*

13 *“(5) Commander.*

14 *“(6) Lieutenant commander.*

15 *“(7) Lieutenant.*

16 *“(8) Lieutenant (junior grade).*

17 *“(9) Ensign.*

18 *“(b) PROPORTION.—*

19 *“(1) IN GENERAL.—The officers on the lineal list*
 20 *shall be distributed in grade in the following percent-*
 21 *ages:*

22 *“(A) 8 in the grade of captain.*

1 “(B) 14 in the grade of commander.

2 “(C) 19 in the grade of lieutenant com-
3 mander.

4 “(2) GRADES BELOW LIEUTENANT COM-
5 MANDER.—The Secretary shall prescribe, with respect
6 to the distribution on the lineal list in grade, the per-
7 centages applicable to the grades of lieutenant, lieu-
8 tenant (junior grade), and ensign.

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

10 “(1) IN GENERAL.—Not less frequently than once
11 each year, the Secretary shall make a computation to
12 determine the number of officers on the lineal list au-
13 thorized to be serving in each grade.

14 “(2) METHOD OF COMPUTATION.—The number
15 in each grade shall be computed by applying the ap-
16 plicable percentage to the total number of such officers
17 serving on active duty on the date the computation is
18 made.

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

24 “(d) TEMPORARY INCREASE IN NUMBERS.—The total
25 number of officers authorized by law to be on the lineal list

1 *during a fiscal year may be temporarily exceeded if the av-*
 2 *erage number on that list during that fiscal year does not*
 3 *exceed the authorized number.*

4 “(e) *POSITIONS OF IMPORTANCE AND RESPONSIB-*
 5 *LITY.—Officers serving in positions designated under sec-*
 6 *tion 228(a) and officers recalled from retired status shall*
 7 *not be counted when computing authorized strengths under*
 8 *subsection (c) and shall not count against those strengths.*

9 “(f) *PRESERVATION OF GRADE AND PAY.—No officer*
 10 *may be reduced in grade or pay or separated from the com-*
 11 *missioned officer corps of the Administration as the result*
 12 *of a computation made to determine the authorized number*
 13 *of officers in the various grades.”.*

14 **SEC. 3. EXCLUSION OF OFFICERS RECALLED FROM RE-**
 15 **TIRED STATUS AND POSITIONS OF IMPOR-**
 16 **TANCE AND RESPONSIBILITY FROM NUMBER**
 17 **OF AUTHORIZED COMMISSIONED OFFICERS.**

18 *Section 215 of the National Oceanic and Atmospheric*
 19 *Administration Commissioned Officer Corps Act of 2002*
 20 *(33 U.S.C. 3005) is amended—*

21 (1) *in the matter before paragraph (1), by strik-*
 22 *ing “Effective” and inserting the following:*

23 “(a) *IN GENERAL.—Effective”;* and

24 (2) *by adding at the end the following new sub-*
 25 *section:*

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

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

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

8 **SEC. 4. OBLIGATED SERVICE REQUIREMENT.**

9 “(a) *IN GENERAL.*—Subtitle A of title II of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.) is amended by adding at the end the following:

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

14 “(a) *IN GENERAL.*—

15 “(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.

20 “(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.

1 “(b) *REPAYMENT FOR FAILURE TO SATISFY REQUIRE-*
2 *MENTS.—*

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

11 “(2) *OBLIGATION AS DEBT TO UNITED STATES.—*
12 *An obligation to reimburse the Secretary under para-*
13 *graph (1) shall be considered for all purposes as a*
14 *debt owed to the United States.*

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

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

24 “(1) *becomes unqualified to serve on active duty*
25 *in the commissioned officer corps of the Administra-*

1 *tion because of a circumstance not within the control*
 2 *of that officer; or*

3 *“(2) is—*

4 *“(A) not physically qualified for appoint-*
 5 *ment; and*

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

11 *(b) CLERICAL AMENDMENT.—The table of sections in*
 12 *section 1 of the Act entitled “An Act to authorize the Hydro-*
 13 *graphic Service Improvement Act of 1998, and for other*
 14 *purposes” (Public Law 107–372) is amended by inserting*
 15 *after the item relating to section 215 the following:*

“Sec. 216. Obligated service requirement.”.

16 **SEC. 5. TRAINING AND PHYSICAL FITNESS.**

17 *(a) IN GENERAL.—Subtitle A of title II of the National*
 18 *Oceanic and Atmospheric Administration Commissioned*
 19 *Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.), as*
 20 *amended by section 5, is further amended by adding at the*
 21 *end the following:*

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

23 *“(a) TRAINING.—The Secretary may take such meas-*
 24 *ures as may be necessary to ensure that officers are pre-*
 25 *pared to carry out their duties in the commissioned officer*

1 *corps of the Administration and proficient in the skills nec-*
2 *essary to carry out such duties. Such measures may include*
3 *the following:*

4 “(1) *Carrying out training programs and cor-*
5 *respondence courses, including establishing and oper-*
6 *ating a basic officer training program to provide ini-*
7 *tial indoctrination and maritime vocational training*
8 *for officer candidates as well as refresher training,*
9 *mid-career training, aviation training, and such*
10 *other training as the Secretary considers necessary for*
11 *officer development and proficiency.*

12 “(2) *Providing officers and officer candidates*
13 *with books and school supplies.*

14 “(3) *Acquiring such equipment as may be nec-*
15 *essary for training and instructional purposes.*

16 “(b) *PHYSICAL FITNESS.—The Secretary shall ensure*
17 *that officers maintain a high physical state of readiness in*
18 *preparation for functioning as a service in the Navy during*
19 *times of war, including by establishing standards of phys-*
20 *ical fitness for officers that are substantially equivalent to*
21 *those prescribed for officers in the Navy.”.*

22 “(b) *CLERICAL AMENDMENT.—The table of sections in*
23 *section 1 of the Act entitled “An Act to authorize the Hydro-*
24 *graphic Service Improvement Act of 1998, and for other*
25 *purposes” (Public Law 107–372), as amended by section*

1 4(b), is further amended by inserting after the item relating
 2 to section 216, as added by such section 4(b), the following:

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

3 **SEC. 6. APPOINTMENTS.**

4 (a) ORIGINAL APPOINTMENTS.—

5 (1) IN GENERAL.—Section 221 of the National
 6 Oceanic and Atmospheric Administration Commis-
 7 sioned Officer Corps Act of 2002 (33 U.S.C. 3021) is
 8 amended to read as follows:

9 **“SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINT-
 10 MENTS.**

11 “(a) ORIGINAL APPOINTMENTS.—

12 “(1) GRADES.—

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

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

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

21 “(B) APPOINTMENT OF OFFICER CAN-
 22 DIDATES.—

23 “(i) LIMITATION ON GRADE.—An origi-
 24 nal appointment of an officer candidate,
 25 upon graduation from the basic officer

1 *training program of the commissioned offi-*
2 *cer corps of the Administration, may not be*
3 *made in any other grade than ensign.*

4 “(i) *RANK.—Officer candidates receiv-*
5 *ing appointments as ensigns upon gradua-*
6 *tion from basic officer training program*
7 *shall take rank according to their pro-*
8 *ficiency as shown by the order of their merit*
9 *at date of graduation.*

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

12 “(A) *Graduates of the basic officer training*
13 *program of the commissioned officer corps of the*
14 *Administration.*

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

20 “(C) *Licensed officers of the United States*
21 *merchant marine who have served 2 or more*
22 *years aboard a vessel of the United States in the*
23 *capacity of a licensed officer, who otherwise meet*
24 *the academic standards for enrollment in the*

1 *training program described in subparagraph*
2 *(A).*

3 “(3) *MILITARY SERVICE ACADEMIES OF THE*
4 *UNITED STATES DEFINED.—In this subsection, the*
5 *term ‘military service academies of the United States’*
6 *means the following:*

7 “(A) *The United States Military Academy,*
8 *West Point, New York.*

9 “(B) *The United States Naval Academy,*
10 *Annapolis, Maryland.*

11 “(C) *The United States Air Force Academy,*
12 *Colorado Springs, Colorado.*

13 “(D) *The United States Coast Guard Acad-*
14 *emy, New London, Connecticut.*

15 “(E) *The United States Merchant Marine*
16 *Academy, Kings Point, New York.*

17 “(b) *REAPPOINTMENT.—*

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

23 “(2) *REAPPOINTMENTS TO HIGHER GRADES.—*
24 *An appointment under paragraph (1) to a position of*
25 *importance and responsibility designated under sec-*

1 *tion 228 may only be made by the President, by and*
2 *with the advice and consent of the Senate.*

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

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

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

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

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

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

3 (2) *CLERICAL AMENDMENT.*—The table of sec-
4 tions in section 1 of the Act entitled “An Act to au-
5 thorize the Hydrographic Service Improvement Act of
6 1998, and for other purposes” (Public Law 107–372)
7 is amended by striking the item relating to section
8 221 and inserting the following:

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

9 (b) *APPOINTMENTS TO PERMANENT GRADES.*—Section
10 226 of such Act (33 U.S.C. 3026) is amended by striking
11 “Appointments” and all that follows and inserting the fol-
12 lowing:

13 “(a) *HIGHER GRADES.*—Original appointments under
14 section 221 in and promotions to the grades of lieutenant
15 commander and above shall be made by the President, by
16 and with the advice and consent of the Senate.

17 “(b) *LOWER GRADES.*—Original appointments under
18 section 221 in and promotions to the grades of ensign
19 through lieutenant shall be made by the President alone.”.

20 **SEC. 7. PERSONNEL BOARDS.**

21 Section 222 of the National Oceanic and Atmospheric
22 Administration Commissioned Officer Corps Act of 2002
23 (33 U.S.C. 3022) is amended to read as follows:

1 **“SEC. 222. PERSONNEL BOARDS.**

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

5 “(b) *MEMBERSHIP.*—

6 “(1) *IN GENERAL.*—*A board convened under sub-*
7 *section (a) shall consist of 5 or more officers who are*
8 *servng in or above the permanent grade of the offi-*
9 *cers under consideration by the board.*

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

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

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

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

22 “(2) *make selections and recommendations to the*
23 *Secretary and the President for the appointment, pro-*
24 *motion, involuntary separation, continuation, and*
25 *involuntary retirement of officers in the commissioned*

1 *officer corps of the Administration as prescribed in*
2 *this title.*

3 “(d) *ACTION ON RECOMMENDATIONS NOT ACCEPT-*
4 *ABLE.—If any recommendation by a board convened under*
5 *subsection (a) is not accepted by the Secretary or the Presi-*
6 *dent, the board shall make such further recommendations*
7 *as the Secretary or the President consider appropriate.”.*

8 **SEC. 8. TEMPORARY APPOINTMENTS.**

9 *Section 229 of the National Oceanic and Atmospheric*
10 *Administration Commissioned Officer Corps Act of 2002*
11 *(33 U.S.C. 3029) is amended to read as follows:*

12 **“SEC. 229. TEMPORARY APPOINTMENTS.**

13 “(a) *APPOINTMENTS BY PRESIDENT.—Temporary ap-*
14 *pointments in the grade of ensign, lieutenant junior grade,*
15 *or lieutenant may be made by the President alone.*

16 “(b) *TERMINATION.—A temporary appointment to a*
17 *position under subsection (a) shall terminate upon ap-*
18 *proval of a permanent appointment for such position made*
19 *by the President alone.*

20 “(c) *ORDER OF PRECEDENCE.—Appointees under sub-*
21 *section (a) shall take precedence in the grade to which ap-*
22 *pointed in accordance with the dates of their appointments*
23 *as officers in such grade. The order of precedence of ap-*
24 *pointees who are appointed on the same date shall be deter-*
25 *mined by the Secretary.*

1 “(d) *ANY ONE GRADE.*—When determined by the Sec-
 2 retary to be in the best interest of the commissioned officer
 3 corps, officers in any permanent grade may be temporarily
 4 promoted one grade by the President alone. Any such tem-
 5 porary promotion terminates upon the transfer of the officer
 6 to a new assignment.”.

7 **SEC. 9. OFFICER CANDIDATES.**

8 (a) *IN GENERAL.*—Subtitle B of title II of the National
 9 Oceanic and Atmospheric Administration Commissioned
 10 Officer Corps Act of 2002 (33 U.S.C. 3021 et seq.) is amend-
 11 ed by adding at the end the following:

12 **“SEC. 234. OFFICER CANDIDATES.**

13 “(a) *DETERMINATION OF NUMBER.*—The Secretary
 14 shall determine the number of appointments of officer can-
 15 didates.

16 “(b) *APPOINTMENT.*—Appointment of officer can-
 17 didates shall be made under regulations which the Secretary
 18 shall prescribe, including regulations with respect to deter-
 19 mining age limits, methods of selection of officer candidates,
 20 term of service as an officer candidate before graduation
 21 from the program, and all other matters affecting such ap-
 22 pointment.

23 “(c) *DISMISSAL.*—The Secretary may dismiss from the
 24 basic officer training program of the Administration any
 25 officer candidate who, during the officer candidate’s term

1 *as an officer candidate, the Secretary considers unsatisfac-*
2 *tory in either academics or conduct, or not adapted for a*
3 *career in the commissioned officer corps of the Administra-*
4 *tion. Officer candidates shall be subject to rules governing*
5 *discipline prescribed by the Director of the National Oce-*
6 *anic and Atmospheric Administration Commissioned Offi-*
7 *cer Corps.*

8 “(d) *AGREEMENT.*—

9 “(1) *IN GENERAL.*—*Each officer candidate shall*
10 *sign an agreement with the Secretary in accordance*
11 *with section 216(a)(2) regarding the officer can-*
12 *didate’s term of service in the commissioned officer*
13 *corps of the Administration.*

14 “(2) *ELEMENTS.*—*An agreement signed by an of-*
15 *ficer candidate under paragraph (1) shall provide*
16 *that the officer candidate agrees to the following:*

17 “(A) *That the officer candidate will com-*
18 *plete the course of instruction at the basic officer*
19 *training program of the Administration.*

20 “(B) *That upon graduation from the such*
21 *program, the officer candidate—*

22 “(i) *will accept an appointment, if*
23 *tendered, as an officer; and*

1 “(ii) will serve on active duty for at
2 least 4 years immediately after such ap-
3 pointment.

4 “(e) REGULATIONS.—The Secretary shall prescribe
5 regulations to carry out this section. Such regulations shall
6 include—

7 “(1) standards for determining what constitutes
8 a breach of an agreement signed under such sub-
9 section (d)(1); and

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

12 “(f) REPAYMENT.—An officer candidate or former offi-
13 cer candidate who does not fulfill the terms of the obligation
14 to serve as specified under section (d) shall be subject to
15 the repayment provisions of section 216(b).”.

16 (b) CLERICAL AMENDMENT.—The table of sections in
17 section 1 of the Act entitled “An Act to authorize the Hydro-
18 graphic Service Improvement Act of 1998, and for other
19 purposes” (Public Law 107–372) is amended by inserting
20 after the item relating to section 233 the following:

“Sec. 234. Officer candidates.”.

21 (c) OFFICER CANDIDATE DEFINED.—Section 212 of
22 such Act (33 U.S.C. 3002) is amended—

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

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

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

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

11 “(f)(1) An officer candidate enrolled in the basic officer
12 training program of the commissioned officer corps of the
13 National Oceanic and Atmospheric Administration is enti-
14 tled, while participating in such program, to monthly offi-
15 cer candidate pay at monthly rate equal to the basic pay
16 of an enlisted member in the pay grade E-5 with less than
17 2 years service.

18 “(2) An individual who graduates from such program
19 shall receive credit for the time spent participating in such
20 program as if such time were time served while on active
21 duty as a commissioned officer. If the individual does not
22 graduate from such program, such time shall not be consid-
23 ered creditable for active duty or pay.”.

1 **SEC. 10. INVOLUNTARY RETIREMENT OR SEPARATION.**

2 *Section 241 of the National Oceanic and Atmospheric*
3 *Administration Commissioned Officer Corps Act of 2002*
4 *(33 U.S.C. 3041) is amended by adding at the end the fol-*
5 *lowing:*

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

8 *“(1) IN GENERAL.—If the Secretary determines*
9 *that the evaluation of the medical condition of an of-*
10 *ficer requires hospitalization or medical observation*
11 *that cannot be completed with confidence in a man-*
12 *ner consistent with the officer’s well being before the*
13 *date on which the officer would otherwise be required*
14 *to retire or be separated under this section, the Sec-*
15 *retary may defer the retirement or separation of the*
16 *officer.*

17 *“(2) CONSENT REQUIRED.—A deferment may*
18 *only be made with the written consent of the officer*
19 *involved. If the officer does not provide written con-*
20 *sent to the deferment, the officer shall be retired or*
21 *separated as scheduled.*

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

1 **SEC. 11. SEPARATION PAY.**

2 *Section 242 of the National Oceanic and Atmospheric*
 3 *Administration Commissioned Officer Corps Act of 2002*
 4 *(33 U.S.C. 3042) is amended by adding at the end the fol-*
 5 *lowing:*

6 “(d) *EXCEPTION.*—*An officer discharged for twice fail-*
 7 *ing selection for promotion to the next higher grade is not*
 8 *entitled to separation pay under this section if the officer—*

9 *“(1) expresses a desire not to be selected for pro-*
 10 *motion; or*

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

12 **SEC. 12. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE**

13 **10, UNITED STATES CODE.**

14 *Section 261(a) of the National Oceanic and Atmos-*
 15 *pheric Administration Commissioned Officer Corps Act of*
 16 *2002 (33 U.S.C. 3071(a)) is amended—*

17 *(1) by redesignating paragraphs (13) through*
 18 *(16) as paragraphs (20) through (23), respectively;*

19 *(2) by redesignating paragraphs (7) through (12)*
 20 *as paragraphs (12) through (17), respectively;*

21 *(3) by redesignating paragraphs (4) through (6)*
 22 *as paragraphs (8) through (10), respectively;*

23 *(4) by inserting after paragraph (3) the fol-*
 24 *lowing:*

25 *“(4) Section 771, relating to unauthorized wear-*
 26 *ing of uniforms.*

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

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

5 “(7) Section 1031, relating to administration of
6 oaths.”;

7 (5) by inserting after paragraph (10), as redesign-
8 ated, the following:

9 “(11) Chapter 58, relating to the Benefits and
10 Services for members being separated or recently sep-
11 arated.”; and

12 (6) by inserting after paragraph (17), as redesign-
13 ated, the following:

14 “(18) Subchapter I of chapter 88, relating to
15 Military Family Programs.

16 “(19) Section 2005, relating to advanced edu-
17 cation assistance, active duty agreements, and reim-
18 bursement requirements.”.

19 **SEC. 13. EDUCATION LOAN REPAYMENT PROGRAM.**

20 (a) *IN GENERAL.*—Subtitle E of title II of the National
21 Oceanic and Atmospheric Administration Commissioned
22 Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.) is amend-
23 ed by adding at the end the following:

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

2 “(a) *AUTHORITY TO REPAY EDUCATION LOANS.*—For
3 *the purpose of maintaining adequate numbers of officers of*
4 *the commissioned officer corps of the Administration on ac-*
5 *tive duty who have skills required by the commissioned offi-*
6 *cer corps, the Secretary may repay, in the case of a person*
7 *described in subsection (b), a loan that—*

8 “(1) *was used by the person to finance edu-*
9 *cation; and*

10 “(2) *was obtained from a governmental entity,*
11 *private financial institution, educational institution,*
12 *or other authorized entity.*

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

15 “(1) *satisfy 1 of the requirements specified in*
16 *subsection (c);*

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

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

24 “(c) *ACADEMIC AND PROFESSIONAL REQUIRE-*
25 *MENTS.*—*One of the following academic requirements must*

1 *be satisfied for purposes of determining the eligibility of an*
2 *individual for a loan repayment under this section:*

3 “(1) *The person is fully qualified in a profession*
4 *that the Secretary has determined to be necessary to*
5 *meet identified skill shortages in the commissioned of-*
6 *ficer corps.*

7 “(2) *The person is enrolled as a full-time student*
8 *in the final year of a course of study at an accredited*
9 *educational institution (as determined by the Sec-*
10 *retary of Education) leading to a degree in a profes-*
11 *sion that will meet identified skill shortages in the*
12 *commissioned officer corps.*

13 “(d) *LOAN REPAYMENTS.—*

14 “(1) *IN GENERAL.—Subject to the limits estab-*
15 *lished under paragraph (2), a loan repayment under*
16 *this section may consist of the payment of the prin-*
17 *cipal, interest, and related expenses of a loan obtained*
18 *by a person described in subsection (b).*

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

24 “(e) *ACTIVE DUTY SERVICE OBLIGATION.—*

1 “(1) *IN GENERAL.*—A person entering into an
2 *agreement described in subsection (b)(3) incurs an ac-*
3 *tive duty service obligation.*

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

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

10 “(B) *MINIMUM OBLIGATION.*—*The regula-*
11 *tions prescribed under subparagraph (A) may*
12 *not provide for a period of obligation of less than*
13 *1 year for each maximum annual amount, or*
14 *portion thereof, paid on behalf of the person for*
15 *qualified loans.*

16 “(3) *PERSONS ON ACTIVE DUTY BEFORE ENTER-*
17 *ING INTO AGREEMENT.*—*The active duty service obli-*
18 *gation of persons on active duty before entering into*
19 *the agreement shall be served after the conclusion of*
20 *any other obligation incurred under the agreement.*

21 “(f) *EFFECT OF FAILURE TO COMPLETE OBLIGA-*
22 *TION.*—

23 “(1) *ALTERNATIVE OBLIGATIONS.*—*An officer*
24 *who is relieved of the officer’s active duty obligation*
25 *under this section before the completion of that obliga-*

1 *tion may be given any alternative obligation, at the*
2 *discretion of the Secretary.*

3 “(2) *REPAYMENT.*—*An officer who does not com-*
4 *plete the period of active duty specified in the agree-*
5 *ment entered into under subsection (b)(3), or the al-*
6 *ternative obligation imposed under paragraph (1),*
7 *shall be subject to the repayment provisions under sec-*
8 *tion 216.*

9 “(g) *RULEMAKING.*—*The Secretary shall prescribe reg-*
10 *ulations to carry out this section, including—*

11 “(1) *standards for qualified loans and authorized*
12 *payees; and*

13 “(2) *other terms and conditions for the making*
14 *of loan repayments.”.*

15 (b) *CLERICAL AMENDMENT.*—*The table of sections in*
16 *section 1 of the Act entitled “An Act to authorize the Hydro-*
17 *graphic Service Improvement Act of 1998, and for other*
18 *purposes” (Public Law 107–372) is amended by inserting*
19 *after the item relating to section 266 the following:*

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

20 **SEC. 14. INTEREST PAYMENT PROGRAM.**

21 (a) *IN GENERAL.*—*Subtitle E of title II of the National*
22 *Oceanic and Atmospheric Administration Commissioned*
23 *Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.), as*
24 *amended by section 13, is further amended by adding at*
25 *the end the following:*

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

2 “(a) *AUTHORITY.*—*The Secretary may pay the interest*
3 *and any special allowances that accrue on 1 or more stu-*
4 *dent loans of an eligible officer, in accordance with this sec-*
5 *tion.*

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

8 “(1) *is serving on active duty;*

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

11 “(3) *is the debtor on 1 or more unpaid loans de-*
12 *scribed in subsection (c); and*

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

14 “(c) *STUDENT LOANS.*—*The authority to make pay-*
15 *ments under subsection (a) may be exercised with respect*
16 *to the following loans:*

17 “(1) *A loan made, insured, or guaranteed under*
18 *part B of title IV of the Higher Education Act of*
19 *1965 (20 U.S.C. 1071 et seq.).*

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

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

24 “(d) *MAXIMUM BENEFIT.*—*Interest and any special*
25 *allowance may be paid on behalf of an officer under this*

1 *section for any of the 36 consecutive months during which*
2 *the officer is eligible under subsection (b).*

3 “(e) *FUNDS FOR PAYMENTS.*—*The Secretary may use*
4 *amounts appropriated for the pay and allowances of per-*
5 *sonnel of the commissioned officer corps of the Administra-*
6 *tion for payments under this section.*

7 “(f) *COORDINATION WITH SECRETARY OF EDU-*
8 *CATION.*—

9 “(1) *IN GENERAL.*—*The Secretary shall consult*
10 *with the Secretary of Education regarding the admin-*
11 *istration of this section.*

12 “(2) *TRANSFER OF FUNDS.*—*The Secretary shall*
13 *transfer to the Secretary of Education the funds nec-*
14 *essary—*

15 “(A) *to pay interest and special allowances*
16 *on student loans under this section (in accord-*
17 *ance with sections 428(o), 455(l), and 464(j) of*
18 *the Higher Education Act of 1965 (20 U.S.C.*
19 *1078(o), 1087e(l), and 1087dd(j)); and*

20 “(B) *to reimburse the Secretary of Edu-*
21 *cation for any reasonable administrative costs*
22 *incurred by the Secretary in coordinating the*
23 *program under this section with the administra-*
24 *tion of the student loan programs under parts B,*
25 *D, and E of title IV of the Higher Education Act*

1 of 1965 (20 U.S.C. 1071 et seq., 1087a et seq.,
2 1087aa et seq.).

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

7 (b) *CONFORMING AMENDMENTS.*—

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

10 (A) *by striking the subsection heading and*
11 *inserting “ARMED FORCES AND NOAA COMMIS-*
12 *SIONED OFFICER CORPS STUDENT LOAN INTER-*
13 *EST PAYMENT PROGRAMS”;* and

14 (B) *in paragraph (1)—*

15 (i) *by inserting “or section 264 of the*
16 *National Oceanic and Atmospheric Admin-*
17 *istration Commissioned Officer Corps Act of*
18 *2002” after “Code,”;* and

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

23 (2) *Sections 455(l) and 464(j) of the Higher*
24 *Education Act of 1965 (20 U.S.C. 1087e(l) and*
25 *1087dd(j)) are each amended—*

1 (A) by striking the subsection heading and
 2 inserting “*ARMED FORCES AND NOAA COMMIS-*
 3 *SIONED OFFICER CORPS STUDENT LOAN INTER-*
 4 *EST PAYMENT PROGRAMS*”; and

5 (B) in paragraph (1)—

6 (i) by inserting “or section 264 of the
 7 *National Oceanic and Atmospheric Admin-*
 8 *istration Commissioned Officer Corps Act of*
 9 *2002” after “Code,”; and*

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

14 (c) *CLERICAL AMENDMENT.—The table of sections in*
 15 *section 1 of the Act entitled “An Act to authorize the Hydro-*
 16 *graphic Service Improvement Act of 1998, and for other*
 17 *purposes” (Public Law 107–372), as amended by section*
 18 *13(b), is further amended by inserting after the item relat-*
 19 *ing to section 267, as added by such section 13(b), the fol-*
 20 *lowing:*

 “Sec. 268. Interest payment program.”.

21 **SEC. 15. STUDENT PRE-COMMISSIONING EDUCATION AS-**
 22 **SISTANCE PROGRAM.**

23 (a) *IN GENERAL.—Subtitle E of title II of the National*
 24 *Oceanic and Atmospheric Administration Commissioned*
 25 *Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.), as*

1 *amended by sections 13 and 14, is further amended by add-*
 2 *ing at the end the following:*

3 **“SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION AS-**
 4 **SISTANCE PROGRAM.**

5 *“(a) AUTHORITY TO PROVIDE FINANCIAL ASSIST-*
 6 *ANCE.—For the purpose of maintaining adequate numbers*
 7 *of officers of the commissioned officer corps of the Adminis-*
 8 *tration on active duty, the Secretary may provide financial*
 9 *assistance to a person described in subsection (b) for ex-*
 10 *penses of the person while the person is pursuing on a full-*
 11 *time basis at an accredited educational institution (as de-*
 12 *termined by the Secretary of Education) a program of edu-*
 13 *cation approved by the Secretary that leads to—*

14 *“(1) a baccalaureate degree in not more than 5*
 15 *academic years; or*

16 *“(2) a postbaccalaureate degree.*

17 *“(b) ELIGIBLE PERSONS.—*

18 *“(1) IN GENERAL.—A person is eligible to obtain*
 19 *financial assistance under subsection (a) if the per-*
 20 *son—*

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

1 “(B) meets all of the requirements for ac-
2 ceptance into the commissioned officer corps of
3 the Administration except for the completion of
4 a baccalaureate degree; and

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

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

11 “(A) to accept an appointment as an offi-
12 cer, if tendered; and

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

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

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

20 “(c) QUALIFYING EXPENSES.—Expenses for which fi-
21 nancial assistance may be provided under subsection (a)
22 are the following:

23 “(1) Tuition and fees charged by the educational
24 institution involved.

25 “(2) The cost of books.

1 “(3) *In the case of a program of education lead-*
2 *ing to a baccalaureate degree, laboratory expenses.*

3 “(4) *Such other expenses as the Secretary con-*
4 *siders appropriate.*

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

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

15 “(f) *SUBSISTENCE ALLOWANCE.—*

16 “(1) *IN GENERAL.—A person who receives finan-*
17 *cial assistance under subsection (a) shall be entitled*
18 *to a monthly subsistence allowance at a rate pre-*
19 *scribed under paragraph (2) for the duration of the*
20 *period for which the person receives such financial as-*
21 *sistance.*

22 “(2) *DETERMINATION OF AMOUNT.—The Sec-*
23 *retary shall prescribe monthly rates for subsistence al-*
24 *lowance provided under paragraph (1), which shall be*

1 equal to the amount specified in section 2144(a) of
2 title 10, United States Code.

3 “(g) *INITIAL CLOTHING ALLOWANCE.*—

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

9 “(2) *APPOINTMENT.*—Upon completion of the
10 program of education for which a person receives fi-
11 nancial assistance under subsection (a) and accept-
12 ance of appointment in the commissioned officer corps
13 of the Administration, the person may be issued a
14 subsequent clothing allowance equivalent to that nor-
15 mally provided to a newly appointed officer.

16 “(h) *TERMINATION OF FINANCIAL ASSISTANCE.*—

17 “(1) *IN GENERAL.*—The Secretary shall termi-
18 nate the assistance provided to a person under this
19 section if—

20 “(A) the Secretary accepts a request by the
21 person to be released from an agreement de-
22 scribed in subsection (b)(2);

23 “(B) the misconduct of the person results in
24 a failure to complete the period of active duty re-
25 quired under the agreement; or

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

3 “(2) REIMBURSEMENT.—The Secretary may re-
4 quire a person who receives assistance described in
5 subsection (c), (f), or (g) under an agreement entered
6 into under subsection (b)(1)(C) to reimburse the Sec-
7 retary in an amount that bears the same ratio to the
8 total costs of the assistance provided to that person as
9 the unserved portion of active duty bears to the total
10 period of active duty the officer agreed to serve under
11 the agreement.

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

16 “(A) becomes unqualified to serve on active
17 duty in the commissioned officer corps of the Ad-
18 ministration because of a circumstance not with-
19 in the control of that person; or

20 “(B) is—

21 “(i) not physically qualified for ap-
22 pointment; and

23 “(ii) determined to be unqualified for
24 service in the commissioned officer corps of
25 the Administration because of a physical or

1 *medical condition that was not the result of*
2 *the person's own misconduct or grossly neg-*
3 *ligent conduct.*

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

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

15 “(i) *REGULATIONS.—The Secretary may promulgate*
16 *such regulations and orders as the Secretary considers ap-*
17 *propriate to carry out this section.”.*

18 (b) *CLERICAL AMENDMENT.—The table of sections in*
19 *section 1 of the Act entitled “An Act to authorize the Hydro-*
20 *graphic Service Improvement Act of 1998, and for other*
21 *purposes” (Public Law 107–372), as amended by section*
22 *14(c), is further amended by inserting after the item relat-*
23 *ing to section 268, as added by such section 14(c), the fol-*
24 *lowing:*

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

1 **SEC. 16. LIMITATION ON EDUCATIONAL ASSISTANCE.**

2 (a) *IN GENERAL.*—Each fiscal year, beginning with
 3 fiscal year 2013, the Secretary of Commerce shall ensure
 4 that the total amount expended by the Secretary under sec-
 5 tion 267 of the National Oceanic and Atmospheric Admin-
 6 istration Commissioned Officer Corps Act of 2002 (as added
 7 by section 13(a)), section 268 of such Act (as added by sec-
 8 tion 14(a)), and section 269 of such Act (as added by section
 9 15(a)) does not exceed the amount by which—

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

17 (2) the total amount the Secretary actually pays
 18 in that fiscal year to officer candidates under section
 19 203(f)(1) of such title (as so added).

20 (b) *OFFICER CANDIDATE DEFINED.*—In this section,
 21 the term “officer candidate” has the meaning given the term
 22 in section 212 of such Act (as added by section 9(c)).

23 **SEC. 17. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE**
 24 **37, UNITED STATES CODE.**

25 (a) *IN GENERAL.*—Subtitle E of title II of the National
 26 Oceanic and Atmospheric Administration Commissioned

1 *Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.), as*
2 *amended by sections 13 through 15, is further amended by*
3 *adding at the end the following:*

4 **“SEC. 270. APPLICABILITY OF CERTAIN PROVISIONS OF**
5 **TITLE 37, UNITED STATES CODE.**

6 “(a) *PROVISIONS MADE APPLICABLE TO COMMIS-*
7 *SIONED OFFICER CORPS.—The provisions of law applicable*
8 *to the Armed Forces under the following provisions of title*
9 *37, United States Code, shall apply to the commissioned*
10 *officer corps of the Administration:*

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

13 “(2) *Section 403(f)(3), relating to prescribing*
14 *regulations defining the terms ‘field duty’ and ‘sea*
15 *duty’.*

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

19 “(4) *Section 414(a)(2), relating to personal*
20 *money allowance while serving as Director of the Na-*
21 *tional Oceanic and Atmospheric Administration*
22 *Commissioned Officer Corps.*

23 “(5) *Section 428, relating to allowances for re-*
24 *cruiting expenses.*

1 “(6) Section 435, relating to allowances for fu-
2 neral honors duty.

3 “(b) REFERENCES.—The authority vested by title 37,
4 United States Code, in the ‘military departments’, ‘the Sec-
5 retary concerned’, or ‘the Secretary of Defense’ with respect
6 to the provisions of law referred to in subsection (a) shall
7 be exercised, with respect to the commissioned officer corps
8 of the Administration when the commissioned officer corps
9 is not operating as a service in the Navy, by the Secretary
10 of Commerce or the Secretary’s designee.”.

11 (b) CLERICAL AMENDMENT.—The table of sections in
12 section 1 of the Act entitled “An Act to authorize the Hydro-
13 graphic Service Improvement Act of 1998, and for other
14 purposes” (Public Law 107–372), as amended by section
15 15(b), is further amended by inserting after the item relat-
16 ing to section 269, as added by such section 15(b), the fol-
17 lowing:

 “Sec. 270. Applicability of certain provisions of title 37, United States Code.”.

18 **SEC. 18. APPLICATION OF CERTAIN PROVISIONS OF COM-**
19 **PETITIVE SERVICE LAW.**

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

22 (1) in paragraph (1), by inserting “and mem-
23 bers of the commissioned officer corps of the National
24 Oceanic and Atmospheric Administration (or its
25 predecessor organization the Coast and Geodetic Sur-

1 *vey) separated from such uniformed service” after*
 2 *“separated from the armed forces”;*

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

5 *(3) in paragraph (4), by inserting “and mem-*
 6 *bers of the commissioned officer corps of the National*
 7 *Oceanic and Atmospheric Administration (or its*
 8 *predecessor organization the Coast and Geodetic Sur-*
 9 *vey) separated from such uniformed service” after*
 10 *“separated from the armed forces”.*

11 **SEC. 19. ELIGIBILITY OF ALL MEMBERS OF UNIFORMED**
 12 **SERVICES FOR LEGION OF MERIT AWARD.**

13 *Section 1121 of title 10, United States Code, is amend-*
 14 *ed by striking “armed forces” and inserting “uniformed*
 15 *services”.*

16 **SEC. 20. APPLICATION OF EMPLOYMENT AND REEMPLOY-**
 17 **MENT RIGHTS OF MEMBERS OF THE UNI-**
 18 **FORMED SERVICES TO MEMBERS OF COMMIS-**
 19 **SIONED OFFICER CORPS.**

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

1 **SEC. 21. PROTECTED COMMUNICATIONS FOR COMMIS-**
 2 **SIONED OFFICER CORPS AND PROHIBITION**
 3 **OF RETALIATORY PERSONNEL ACTIONS.**

4 (a) *IN GENERAL.*—Subsection (a) of section 261 of the
 5 *National Oceanic and Atmospheric Administration Com-*
 6 *missioned Officer Corps Act of 2002 (33 U.S.C. 3071(a)),*
 7 *as amended by section 12, is further amended—*

8 (1) *by redesignating paragraphs (8) through (23)*
 9 *as paragraphs (9) through (24), respectively; and*

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

12 “(8) *Section 1034, relating to protected commu-*
 13 *nications and prohibition of retaliatory personnel ac-*
 14 *tions.*”.

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

20 **SEC. 22. CRIMINAL PENALTIES FOR WEARING UNIFORM**
 21 **WITHOUT AUTHORITY.**

22 *Section 702 of title 18, United States Code, is amended*
 23 *by striking “Service or any” and inserting “Service, the*
 24 *commissioned officer corps of the National Oceanic and At-*
 25 *mospheric Administration, or any”.*

1 **SEC. 23. REPORT ON STATUS OF OFFICERS IN COMMIS-**
2 **SIONED OFFICER CORPS OF NATIONAL OCE-**
3 **ANIC AND ATMOSPHERIC ADMINISTRATION**
4 **AND PUBLIC HEALTH SERVICE DURING GOV-**
5 **ERNMENT SHUTDOWNS.**

6 *Not later than 60 days after the date of the enactment*
7 *of this Act, the Attorney General shall submit to Congress*
8 *a report that details whether officers of the commissioned*
9 *officer corps of the National Oceanic and Atmospheric Ad-*
10 *ministration and the Public Health Service are treated as*
11 *performing an essential level of activity to protect life and*
12 *property during any period of a lapse in appropriations.*

13 **SEC. 24. TECHNICAL CORRECTION.**

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

17 **SEC. 25. REPORT.**

18 *(a) IN GENERAL.—Not later than 90 days after the*
19 *date of the enactment of this Act, the Secretary of Commerce*
20 *shall submit to Congress a report evaluating the current sta-*
21 *tus and projected needs of the commissioned officer corps*
22 *of the National Oceanic and Atmospheric Administration*
23 *to operate sufficiently through fiscal year 2017.*

24 *(b) CONTENTS.—The report required by subsection (a)*
25 *shall include the following:*

1 (1) *The average annual attrition rate of officers*
2 *in the commissioned officer corps of the National Oce-*
3 *anic and Atmospheric Administration.*

4 (2) *An estimate of the number of annual recruits*
5 *that would reasonably be required to operate the com-*
6 *missioned officer corps sufficiently through fiscal year*
7 *2017.*

8 (3) *The projected impact of this Act on annual*
9 *recruitment numbers through fiscal year 2017.*

10 (4) *Identification of areas of duplication or un-*
11 *necessary redundancy in current activities of the com-*
12 *missioned officer corps that could otherwise be stream-*
13 *lined or eliminated to save costs.*

14 (5) *Such other matters as the Secretary considers*
15 *appropriate regarding the provisions of this Act and*
16 *the amendments made by this Act.*

17 **SEC. 26. EFFECTIVE DATE.**

18 *Notwithstanding any other provision of this Act, sec-*
19 *tions 2 through 22 shall take effect on the date that is 90*
20 *days after the date on which the Secretary of Commerce*
21 *submits to Congress the report required by section 25(a).*

Calendar No. 551

112TH CONGRESS
2^D SESSION
S. 2388

A BILL

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

NOVEMBER 14, 2012

Reported with an amendment