

112TH CONGRESS  
2D SESSION

# S. 2388

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

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## IN THE SENATE OF THE UNITED STATES

APRIL 26, 2012

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

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## 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,*

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

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

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 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 importance and responsibility from number of authorized commissioned 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 prohibition 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.

## 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.

1 “(5) Commander.

2 “(6) Lieutenant commander.

3 “(7) Lieutenant.

4 “(8) Lieutenant (junior grade).

5 “(9) Ensign.

6 “(b) PROPORTION.—

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

10 “(A) 8 in the grade of captain.

11 “(B) 14 in the grade of commander.

12 “(C) 19 in the grade of lieutenant com-  
13 mander.

14 “(2) GRADES BELOW LIEUTENANT COM-  
15 MANDER.—The Secretary shall prescribe, with re-  
16 spect to the distribution on the lineal list in grade,  
17 the percentages applicable to the grades of lieuten-  
18 ant, lieutenant (junior grade), and ensign.

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

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

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

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

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

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

22          “(f) PRESERVATION OF GRADE AND PAY.—No offi-  
23          cer may be reduced in grade or pay or separated from  
24          the commissioned officer corps of the Administration as

1 the result of a computation made to determine the author-  
 2 ized number of officers in the various grades.”.

3 **SEC. 3. EXCLUSION OF OFFICERS RECALLED FROM RE-**  
 4 **TIRED STATUS AND POSITIONS OF IMPOR-**  
 5 **TANCE AND RESPONSIBILITY FROM NUMBER**  
 6 **OF AUTHORIZED COMMISSIONED OFFICERS.**

7 Section 215 of the National Oceanic and Atmospheric  
 8 Administration Commissioned Officer Corps Act of 2002  
 9 (33 U.S.C. 3005) is amended—

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

12 “(a) IN GENERAL.—Effective”; and

13 (2) by adding at the end the following new sub-  
 14 section:

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

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

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

22 **SEC. 4. OBLIGATED SERVICE REQUIREMENT.**

23 (a) IN GENERAL.—Subtitle A of the National Oee-  
 24 anic and Atmospheric Administration Commissioned Offi-

cer Corps Act of 2002 (33 U.S.C. 3001 et seq.) is amended by adding at the end the following:

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

“(a) IN GENERAL.—

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

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

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

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

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

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

11          “(c) WAIVER OR SUSPENSION OF COMPLIANCE.—  
12          The Secretary may waive the service obligation of an offi-  
13          cer who—

14               “(1) becomes unqualified to serve on active  
15               duty in the commissioned officer corps of the Ad-  
16               ministration because of a circumstance not within  
17               the control of that officer; or

18               “(2) is—

19                       “(A) not physically qualified for appoint-  
20                       ment; and

21                       “(B) determined to be unqualified for serv-  
22                       ice in the commissioned officer corps of the Ad-  
23                       ministration because of a physical or medical  
24                       condition that was not the result of the officer’s  
25                       own misconduct or grossly negligent conduct.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
 2 in section 1 of the Act entitled “An Act to authorize the  
 3 Hydrographic Service Improvement Act of 1998, and for  
 4 other purposes” (Public Law 107–372) is amended by in-  
 5 serting after the item relating to section 215 the following:

“Sec. 216. Obligated service requirement.”.

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

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

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

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

19 “(1) Carrying out training programs and cor-  
 20 respondence courses, including establishing and op-  
 21 erating a basic officer training program to provide  
 22 initial indoctrination and maritime vocational train-  
 23 ing for officer candidates as well as refresher train-  
 24 ing, mid-career training, aviation training, and such



1 other training as the Secretary considers necessary  
 2 for officer development and proficiency.

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

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

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

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

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

## 20 **SEC. 6. APPOINTMENTS.**

21 (a) ORIGINAL APPOINTMENTS.—

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

1 **“SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINT-**  
2 **MENTS.**

3 “(a) ORIGINAL APPOINTMENTS.—

4 “(1) GRADES.—

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

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

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

13 “(B) APPOINTMENT OF OFFICER CAN-  
14 DIDATES.—

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

22 “(ii) RANK.—Officer candidates re-  
23 ceiving appointments as ensigns upon  
24 graduation from basic officer training pro-  
25 gram shall take rank according to their

1                   proficiency as shown by the order of their  
2                   merit at date of graduation.

3                   “(2) SOURCE OF APPOINTMENTS.—An original  
4                   appointment may be made from among the fol-  
5                   lowing:

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

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

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

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

1                   “(A) The United States Military Academy,  
2                   West Point, New York.

3                   “(B) The United States Naval Academy,  
4                   Annapolis, Maryland.

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

7                   “(D) The United States Coast Guard  
8                   Academy, New London, Connecticut.

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

11               “(b) REAPPOINTMENT.—

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

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

22               “(c) QUALIFICATIONS.—An appointment under sub-  
23               section (a) or (b) may not be given to an individual until  
24               the individual’s mental, moral, physical, and professional  
25               fitness to perform the duties of an officer has been estab-

1 lished under such regulations as the Secretary shall pre-  
 2 scribe.

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

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

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

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

20 “(a) HIGHER GRADES.—Original appointments  
 21 under section 221 in and promotions to the grades of lieu-  
 22 tenant commander and above shall be made by the Presi-  
 23 dent, by and with the advice and consent of the Senate.

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

4 **SEC. 7. PERSONNEL BOARDS.**

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

8 **“SEC. 222. PERSONNEL BOARDS.**

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

13 “(b) MEMBERSHIP.—

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

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

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

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

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

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

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

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

18          Section 229 of the National Oceanic and Atmospheric  
19          Administration Commissioned Officer Corps Act of 2002  
20          (33 U.S.C. 3029) is amended to read as follows:

21       **“SEC. 229. TEMPORARY APPOINTMENTS.**

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

1       “(b) TERMINATION.—A temporary appointment to a  
 2 position under subsection (a) shall terminate upon ap-  
 3 proval of a permanent appointment for such position made  
 4 by the President alone.

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

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

17 **SEC. 9. OFFICER CANDIDATES.**

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

22 **“SEC. 234. OFFICER CANDIDATES.**

23       “(a) DETERMINATION OF NUMBER.—The Secretary  
 24 shall determine the number of appointments of officer can-  
 25 didates.



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

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

18       “(d) AGREEMENT.—

19               “(1) IN GENERAL.—Each officer candidate  
20 shall sign an agreement with the Secretary in ac-  
21 cordance with section 216(a)(2) regarding the officer  
22 candidate’s term of service in the commissioned offi-  
23 cer corps of the Administration.

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

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

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

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

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

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

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

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

22           “(f) REPAYMENT.—An officer candidate or former  
 23           officer candidate who does not fulfill the terms of the obli-  
 24           gation to serve as specified under section (d) shall be sub-  
 25           ject to the repayment provisions of section 216(b).”.

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

“Sec. 234. Officer candidates.”.

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

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

10 (2) by inserting after paragraph (4) the fol-  
 11 lowing:

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

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

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

1 pay of an enlisted member in the pay grade E–5 with less  
 2 than two years service.

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

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

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

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

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

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

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

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

9           (a) IN GENERAL.—Subtitle E of title II of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.) is amended by adding at the end the following:

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

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

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

22           “(2) was obtained from a governmental entity, private financial institution, educational institution, 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       “(c) 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(l), and 1087dd(j)) are each  
2 amended—

3 (1) by striking the subsection heading and in-  
4 sserting “ARMED FORCES AND NOAA COMMIS-  
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 (c), (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(c), is further amended by inserting after the  
 4 item relating to section 268, as added by such section  
 5 14(c), 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(l), 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 (c)(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 Oce-  
13 anic and Atmospheric Administration, or any”.

14   **SEC. 22. REPORT ON STATUS OF OFFICERS IN COMMIS-**  
15                                   **SIONED 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”.

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