

Calendar No. 292

113TH CONGRESS
2D SESSION

S. 1068

[Report No. 113–133]

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

MAY 23, 2013

Mr. BEGICH (for himself, Mr. WICKER, Mr. SCHATZ, Mr. BLUMENTHAL, Mr. MERKLEY, Ms. MIKULSKI, Mr. COCHRAN, Mr. NELSON, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JANUARY 8, 2014

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 2013”.

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

Sec. 1. Short title; table of contents.

Sec. 2. References to National Oceanic and Atmospheric Administration Com-
 missioned Officer Corps Act of 2002.

TITLE I—GENERAL PROVISIONS

Sec. 101. Strength and distribution in grade.

Sec. 102. Exclusion of officers recalled from retired status and positions of im-
 portance and responsibility from number of authorized commis-
 sioned officers.

Sec. 103. Obligated service requirement.

Sec. 104. Training and physical fitness.

TITLE II—APPOINTMENTS AND PROMOTION OF OFFICERS

Sec. 201. Appointments.

Sec. 202. Personnel boards.

Sec. 203. Delegation of authority for appointments and promotions to perma-
 nent grades.

Sec. 204. Temporary appointments.

Sec. 205. Officer candidates.

Sec. 206. Procurement of personnel.

TITLE III—SEPARATION AND RETIREMENT OF OFFICERS

Sec. 301. Involuntary retirement or separation.

Sec. 302. Separation pay.

TITLE IV—RIGHTS AND BENEFITS

Sec. 401. Education loan repayment program.

Sec. 402. Interest payment program.

Sec. 403. Student pre-commissioning education assistance program.

Sec. 404. Limitation on educational assistance.

Sec. 405. Applicability of certain provisions of title 10, United States Code.

Sec. 406. Applicability of certain provisions of title 37, United States Code.

Sec. 407. Application of certain provisions of competitive service law.

Sec. 408. Eligibility of all members of uniformed services for Legion of Merit
 award.

Sec. 409. Application of Employment and Reemployment Rights of Members of
 the Uniformed Services to members of commissioned officer
 corps.

Sec. 410. Protected communications for commissioned officer corps and prohi-
 bition of retaliatory personnel actions.

Sec. 411. Criminal penalties for wearing uniform without authority.

TITLE V—OTHER MATTERS

Sec. 501. Technical correction.

Sec. 502. Report.

Sec. 503. Effective date.

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

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

11 **TITLE I—GENERAL PROVISIONS**

12 **SEC. 101. STRENGTH AND DISTRIBUTION IN GRADE.**

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

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

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

19 **“(1) Vice admiral.**

20 **“(2) Rear admiral.**

21 **“(3) Rear admiral (lower half).**

22 **“(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 ~~cal 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 (e) 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. 102. 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 (33 U.S.C. 3005) is amended—

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

10 “(a) IN GENERAL.—Effective”; and

11 (2) by adding at the end the following new sub-
 12 section:

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

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

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

20 **SEC. 103. OBLIGATED SERVICE REQUIREMENT.**

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

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

24 “(a) IN GENERAL.—

1 “(1) RULEMAKING.—The Secretary shall pre-
 2 scribe the obligated service requirements for appoint-
 3 ments, training, promotions, separations, continu-
 4 ations, and retirement of officers not otherwise cov-
 5 ered by law.

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

12 “(b) REPAYMENT FOR FAILURE TO SATISFY RE-
 13 QUIREMENTS.—

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

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

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

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

10 “(1) becomes unqualified to serve on active
 11 duty in the commissioned officer corps of the Ad-
 12 ministration because of a circumstance not within
 13 the control of that officer; or

14 “(2) is—

15 “(A) not physically qualified for appoint-
 16 ment; and

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

22 (b) CLERICAL AMENDMENT.—The table of sections
 23 in section 1 of the Act entitled “An Act to authorize the
 24 Hydrographic Service Improvement Act of 1998; and for

1 other purposes” (Public Law 107–372) is amended by in-
 2 serting after the item relating to section 215 the following:
 “Sec. 216. Obligated service requirement.”.

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

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

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

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

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

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

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

1 “(b) **PHYSICAL FITNESS.**—The Secretary shall en-
 2 sure that officers maintain a high physical state of readi-
 3 ness by establishing standards of physical fitness for offi-
 4 cers that are substantially equivalent to those prescribed
 5 for officers in the Coast Guard.”.

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), as amended by
 10 section 103(b), is further amended by inserting after the
 11 item relating to section 216 the following:

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

12 **TITLE II—APPOINTMENTS AND** 13 **PROMOTION OF OFFICERS**

14 **SEC. 201. APPOINTMENTS.**

15 (a) **ORIGINAL APPOINTMENTS.**—

16 (1) **IN GENERAL.**—Section 221 (33 U.S.C.
 17 3021) is amended to read as follows:

18 **“SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINT-** 19 **MENTS.**

20 “(a) **ORIGINAL APPOINTMENTS.**—

21 “(1) **GRADES.**—

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

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

3 “(ii) the commissioned officer corps of
4 the Administration.

5 “(B) APPOINTMENT OF OFFICER CAN-
6 DIDATES.—

7 “(i) LIMITATION ON GRADE.—An
8 original appointment of an officer can-
9 didate, upon graduation from the basic of-
10 ficer training program of the commissioned
11 officer corps of the Administration, may
12 not be made in any other grade than en-
13 sign.

14 “(ii) RANK.—Officer candidates re-
15 ceiving appointments as ensigns upon
16 graduation from basic officer training pro-
17 gram shall take rank according to their
18 proficiency as shown by the order of their
19 merit at date of graduation.

20 “(2) SOURCE OF APPOINTMENTS.—An original
21 appointment may be made from among the fol-
22 lowing:

23 “(A) Graduates of the basic officer train-
24 ing program of the commissioned officer corps
25 of the Administration.

1 ~~“(B) Graduates of the military service~~
 2 ~~academies of the United States who otherwise~~
 3 ~~meet the academic standards for enrollment in~~
 4 ~~the training program described in subparagraph~~
 5 ~~(A).~~

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

13 ~~“(3) MILITARY SERVICE ACADEMIES OF THE~~
 14 ~~UNITED STATES DEFINED.—In this subsection, the~~
 15 ~~term ‘military service academies of the United~~
 16 ~~States’ means the following:~~

17 ~~“(A) The United States Military Academy,~~
 18 ~~West Point, New York.~~

19 ~~“(B) The United States Naval Academy,~~
 20 ~~Annapolis, Maryland.~~

21 ~~“(C) The United States Air Force Acad-~~
 22 ~~emy, Colorado Springs, Colorado.~~

23 ~~“(D) The United States Coast Guard~~
 24 ~~Academy, New London, Connecticut.~~

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

3 ~~“(b) REAPPOINTMENT.—~~

4 ~~“(1) IN GENERAL.—Except as provided in para-~~
5 ~~graph (2), an individual who previously served in the~~
6 ~~commissioned officer corps of the Administration~~
7 ~~may be appointed by the Secretary to the grade the~~
8 ~~individual held prior to separation.~~

9 ~~“(2) REAPPOINTMENTS TO HIGHER GRADES.—~~

10 ~~An appointment under paragraph (1) to a position~~
11 ~~of importance and responsibility designated under~~
12 ~~section 228 may only be made by the President.~~

13 ~~“(c) QUALIFICATIONS.—An appointment under sub-~~
14 ~~section (a) or (b) may not be given to an individual until~~
15 ~~the individual's mental, moral, physical, and professional~~
16 ~~fitness to perform the duties of an officer has been estab-~~
17 ~~lished under such regulations as the Secretary shall pre-~~
18 ~~scribe.~~

19 ~~“(d) PRECEDENCE OF APPOINTEES.—Appointees~~
20 ~~under this section shall take precedence in the grade to~~
21 ~~which appointed in accordance with the dates of their com-~~
22 ~~missions as commissioned officers in such grade. Ap-~~
23 ~~pointees whose dates of commission are the same shall~~
24 ~~take precedence with each other as the Secretary shall de-~~
25 ~~termine.~~

1 ~~“(e) INTER-SERVICE TRANSFERS.—For inter-service~~
 2 transfers (as described in the Department of Defense Di-
 3 rective 1300.4 (dated December 27, 2006)) the Secretary
 4 shall—

5 ~~“(1) coordinate with the Secretary of Defense~~
 6 and the Secretary of the Department in which the
 7 Coast Guard is operating to promote and streamline
 8 inter-service transfers;

9 ~~“(2) give preference to such inter-service trans-~~
 10 fers for recruitment purposes as determined appro-
 11 priate by the Secretary; and

12 ~~“(3) reappoint such inter-service transfers to~~
 13 the equivalent grade in the commissioned officer
 14 corps.”.

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

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

21 **SEC. 202. PERSONNEL BOARDS.**

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

1 **~~“SEC. 222. PERSONNEL BOARDS.~~**

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

6 ~~“(b) MEMBERSHIP.—~~

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

11 ~~“(2) RETIRED OFFICERS.—Officers on the re-~~
 12 ~~tired list may be recalled to serve on such personnel~~
 13 ~~boards as the Secretary considers necessary.~~

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

18 ~~“(c) DUTIES.—Each personnel board shall—~~

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

23 ~~“(2) make selections and recommendations to~~
 24 ~~the Secretary and the President for the appoint-~~
 25 ~~ment, promotion, involuntary separation, continu-~~
 26 ~~ation, and involuntary retirement of officers in the~~

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

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

9 **SEC. 203. DELEGATION OF AUTHORITY FOR APPOINT-**
10 **MENTS AND PROMOTIONS TO PERMANENT**
11 **GRADES.**

12 Section 226 (~~33 U.S.C. 3026~~) is amended—

13 (1) by striking “Appointments” and inserting
14 the following:

15 “(a) ~~IN GENERAL.~~—Appointments”; and

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

17 “(b) ~~DELEGATION OF APPOINTMENT AUTHORITY.~~—
18 If the President delegates authority to the Secretary to
19 make appointments under this section, the President shall,
20 during a period in which the position of the Secretary is
21 vacant, delegate such authority to the Deputy Secretary
22 of Commerce or the Under Secretary for Oceans and At-
23 mosphere during such period.”.

1 **SEC. 204. TEMPORARY APPOINTMENTS.**

2 Section 229 (33 U.S.C. 3029) is amended to read as
3 follows:

4 **“SEC. 229. TEMPORARY APPOINTMENTS.**

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

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

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

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

24 **“(e) DELEGATION OF APPOINTMENT AUTHORITY.—**
25 If the President delegates authority to the Secretary to
26 make appointments under this section, the President shall,

1 during a period in which the position of the Secretary is
 2 vacant, delegate such authority to the Deputy Secretary
 3 of Commerce or the Under Secretary for Oceans and At-
 4 mosphere during such period.”.

5 **SEC. 205. OFFICER CANDIDATES.**

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

8 **“SEC. 234. OFFICER CANDIDATES.**

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

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

19 “(c) DISMISSAL.—The Secretary may dismiss from
 20 the basic officer training program of the Administration
 21 any officer candidate who, during the officer candidate’s
 22 term as an officer candidate, the Secretary considers un-
 23 satisfactory in either academics or conduct, or not adapted
 24 for a career in the commissioned officer corps of the Ad-
 25 ministration. Officer candidates shall be subject to rules

1 governing discipline prescribed by the Director of the Na-
 2 tional Oceanic and Atmospheric Administration Commis-
 3 sioned Officer Corps.

4 “(d) AGREEMENT.—

5 “(1) IN GENERAL.—Each officer candidate
 6 shall sign an agreement with the Secretary in ac-
 7 cordance with section 216(a)(2) regarding the officer
 8 candidate’s term of service in the commissioned offi-
 9 cer corps of the Administration.

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

13 “(A) That the officer candidate will com-
 14 plete the course of instruction at the basic offi-
 15 cer training program of the Administration.

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

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

20 “(ii) will serve on active duty for at
 21 least 4 years immediately after such ap-
 22 pointment.

23 “(e) REGULATIONS.—The Secretary shall prescribe
 24 regulations to carry out this section. Such regulations
 25 shall include—

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

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

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

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

15 (c) OFFICER CANDIDATE DEFINED.—Section 212
16 (33 U.S.C. 3002) is amended—

17 (1) by redesignating paragraphs (4) through
18 (6) as paragraphs (5) through (7), respectively; and
19 (2) by inserting after paragraph (3) the fol-
20 lowing:

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

1 (d) ~~PAY FOR OFFICER CANDIDATES.~~—Section 203 of
 2 title 37, United States Code, is amended by adding at the
 3 end the following:

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

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

17 **~~SEC. 206. PROCUREMENT OF PERSONNEL.~~**

18 (a) ~~IN GENERAL.~~—Subtitle B (33 U.S.C. 3021 et
 19 seq.), as amended by section 205(a), is further amended
 20 by adding at the end the following:

21 **~~“SEC. 235. PROCUREMENT OF PERSONNEL.~~**

22 “‘The Secretary may make such expenditures as the
 23 Secretary considers necessary in order to obtain recruits
 24 for the commissioned officer corps of the Administration,
 25 including advertising.’”.

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), as amended by
 5 section 205(b), is further amended by inserting after the
 6 item relating to section 234 the following:

“235. Procurement of personnel.”.

7 **TITLE III—SEPARATION AND** 8 **RETIREMENT OF OFFICERS**

9 **SEC. 301. INVOLUNTARY RETIREMENT OR SEPARATION.**

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

12 “(d) DEFERMENT OF RETIREMENT OR SEPARATION
 13 FOR MEDICAL REASONS.—

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

23 “(2) CONSENT REQUIRED.—A deferment may
 24 only be made with the written consent of the officer
 25 involved. If the officer does not provide written con-

1 sent to the deferment, the officer shall be retired or
2 separated as scheduled.

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

8 **SEC. 302. SEPARATION PAY.**

9 Section 242 (~~33~~ U.S.C. 3042) is amended by adding
10 at the end the following:

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

15 ~~“(1) expresses a desire not to be selected for~~
16 ~~promotion; or~~

17 ~~“(2) requests removal from the list of select-~~
18 ~~ees.”.~~

19 **TITLE IV—RIGHTS AND**
20 **BENEFITS**

21 **SEC. 401. EDUCATION LOAN REPAYMENT PROGRAM.**

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

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

2 ~~“(a) AUTHORITY TO REPAY EDUCATION LOANS.—~~

3 For the purpose of maintaining adequate numbers of offi-
 4 cers of the commissioned officer corps of the Administra-
 5 tion on active duty who have skills required by the com-
 6 missioned officer corps, the Secretary may repay, in the
 7 case of a person 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~~
 14 ~~a 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~~
 26 ~~must be satisfied for purposes of determining the eligi-~~

1 bility of an individual for a loan repayment under this sec-
 2 tion:

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

7 “(2) The person is enrolled as a full-time stu-
 8 dent in the final year of a course of study at an ac-
 9 credited educational institution (as determined by
 10 the Secretary of Education) leading to a degree in
 11 a profession that will meet identified skill shortages
 12 in the 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 ob-
 18 tained by a person described in subsection (b).

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

25 “(e) ACTIVE DUTY SERVICE OBLIGATION.—

1 ~~“(1) IN GENERAL.—A person entering into an~~
 2 ~~agreement described in subsection (b)(3) incurs an~~
 3 ~~active 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~~
 13 ~~than 1 year for each maximum annual amount,~~
 14 ~~or portion thereof, paid on behalf of the person~~
 15 ~~for qualified loans.~~

16 ~~“(3) PERSONS ON ACTIVE DUTY BEFORE EN-~~
 17 ~~TERING INTO AGREEMENT.—The active duty service~~
 18 ~~obligation of persons on active duty before entering~~
 19 ~~into the agreement shall be served after the conclu-~~
 20 ~~sion of any other obligation incurred under the~~
 21 ~~agreement.~~

22 ~~“(f) EFFECT OF FAILURE TO COMPLETE OBLIGA-~~
 23 ~~TION.—~~

24 ~~“(1) ALTERNATIVE OBLIGATIONS.—An officer~~
 25 ~~who is relieved of the officer’s active duty obligation~~

1 under this section before the completion of that obli-
 2 gation may be given any alternative obligation, at
 3 the discretion of the Secretary.

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

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

12 “(1) standards for qualified loans and author-
 13 ized payees; and

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

16 (b) 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) is amended by in-
 20 serting after the item relating to section 266 the following:

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

21 **SEC. 402. INTEREST PAYMENT PROGRAM.**

22 (a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et
 23 seq.), as amended by section 401(a), is further amended
 24 by adding at the end the following:

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

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

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~~
 12 ~~described 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~~
 21 ~~(20 U.S.C. 1087a et seq.).~~

22 ~~“(3) A loan made under part E of such title~~
 23 ~~(20 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
 4 use amounts appropriated for the pay and allowances of
 5 personnel of the commissioned officer corps of the Admin-
 6 istration 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 ad-
 11 ministration of this section.

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

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
 25 B, D, and E of title IV of the Higher Edu-

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

3 ~~“(g) SPECIAL ALLOWANCE DEFINED.—In this sec-~~
 4 ~~tion, the term ‘special allowance’ means a special allow-~~
 5 ~~ance that is payable under section 438 of the Higher Edu-~~
 6 ~~cation Act 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 COM-~~
 12 ~~MISSIONED OFFICER CORPS STUDENT LOAN~~
 13 ~~INTEREST 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~~
 18 ~~of 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—~~

(A) by striking the subsection heading and inserting “ARMED FORCES AND NOAA COMMISSIONED OFFICER CORPS STUDENT LOAN INTEREST PAYMENT PROGRAMS”; and

(B) in paragraph (1)—

(i) by inserting “or section 264 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002” after “Code,”; and

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

(c) CLERICAL AMENDMENT.—The table of sections in section 1 of the Act entitled “An Act to authorize the Hydrographic Service Improvement Act of 1998, and for other purposes” (Public Law 107–372), as amended by section 401(b), is further amended by inserting after the item relating to section 267 the following:

“Sec. 268. Interest payment program.”.

SEC. 403. STUDENT PRE-COMMISSIONING EDUCATION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et seq.), as amended by sections 401(a) and 402(a), is further amended by adding at the end the following:

1 **“SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION AS-**
 2 **SISTANCE PROGRAM.**

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

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

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

15 ~~“(b) ELIGIBLE PERSONS.—~~

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

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

23 ~~“(B) meets all of the requirements for ac-~~
 24 ~~ceptance into the commissioned officer corps of~~
 25 ~~the Administration except for the completion of~~
 26 ~~a baccalaureate degree; and~~

1 “(C) enters into a written agreement with
2 the Secretary described in paragraph (2).
3

4 ~~“(2) AGREEMENT.—~~A written agreement re-
ferred to in paragraph (1)(C) is an agreement be-
5 tween the person and the Secretary in which the
6 person agrees—

7 ~~“(A) to accept an appointment as an offi-~~
8 ~~cer, if tendered; and~~

9 ~~“(B) upon completion of the person’s edu-~~
10 ~~cational program, agrees to serve on active~~
11 ~~duty, immediately after appointment, for—~~

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

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

16 ~~“(c) QUALIFYING EXPENSES.—~~Expenses for which
17 financial assistance may be provided under subsection (a)
18 are the following:

19 ~~“(1) Tuition and fees charged by the edu-~~
20 ~~cational institution involved.~~

21 ~~“(2) The cost of books.~~

22 ~~“(3) In the case of a program of education~~
23 leading to a baccalaureate degree, laboratory ex-
24 penses.

1 ~~“(4) Such other expenses as the Secretary con-~~
 2 ~~siders appropriate.~~

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

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

13 ~~“(f) SUBSISTENCE ALLOWANCE.—~~

14 ~~“(1) IN GENERAL.—A person who receives fi-~~
 15 ~~nancial assistance under subsection (a) shall be enti-~~
 16 ~~tled to a monthly subsistence allowance at a rate~~
 17 ~~prescribed under paragraph (2) for the duration of~~
 18 ~~the period for which the person receives such finan-~~
 19 ~~cial assistance.~~

20 ~~“(2) DETERMINATION OF AMOUNT.—The See-~~
 21 ~~retary shall prescribe monthly rates for subsistence~~
 22 ~~allowance provided under paragraph (1), which shall~~
 23 ~~be equal to the amount specified in section 2144(a)~~
 24 ~~of title 10, United States Code.~~

25 ~~“(g) INITIAL CLOTHING ALLOWANCE.—~~

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

6 ~~“(2) APPOINTMENT.—~~Upon completion of the
 7 program of education for which a person receives fi-
 8 nancial assistance under subsection (a) and accept-
 9 ance of appointment in the commissioned officer
 10 corps of the Administration, the person may be
 11 issued a subsequent clothing allowance equivalent to
 12 that normally provided to a newly appointed officer.

13 ~~“(h) TERMINATION OF FINANCIAL ASSISTANCE.—~~

14 ~~“(1) IN GENERAL.—~~The Secretary shall termi-
 15 nate the assistance provided to a person under this
 16 section if—

17 ~~“(A) the Secretary accepts a request by~~
 18 the person to be released from an agreement
 19 described in subsection (b)(2);

20 ~~“(B) the misconduct of the person results~~
 21 in a failure to complete the period of active
 22 duty required under the agreement; or

23 ~~“(C) the person fails to fulfill any term or~~
 24 condition of the agreement.

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

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

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

18 “(B) is—

19 “(i) not physically qualified for ap-
 20 pointment; and

21 “(ii) determined to be unqualified for
 22 service in the commissioned officer corps of
 23 the Administration because of a physical or
 24 medical condition that was not the result

1 of the person's own misconduct or grossly
2 negligent conduct.

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

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

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

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 402(c), is further amended by inserting after the
22 item relating to section 268 the following:

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

23 **SEC. 404. LIMITATION ON EDUCATIONAL ASSISTANCE.**

24 (a) IN GENERAL.—Each fiscal year, beginning with
25 fiscal year 2013, the Secretary of Commerce shall ensure

1 that the total amount expended by the Secretary under
 2 section 267 of the National Oceanic and Atmospheric Ad-
 3 ministration Commissioned Officer Corps Act of 2002 (as
 4 added by section 401(a)), section 268 of such Act (as
 5 added by section 402(a)), and section 269 of such Act (as
 6 added by section 403(a)) does not exceed the amount by
 7 which—

8 (1) the total amount the Secretary would pay in
 9 that fiscal year to officer candidates under section
 10 203(f)(1) of title 37, United States Code (as added
 11 by section 205(d)), if such section entitled officers
 12 candidates to pay at monthly rates equal to the
 13 basic pay of a commissioned officer in the pay grade
 14 O-1 with less than 2 years of service; exceeds

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

18 (b) OFFICER CANDIDATE DEFINED.—In this section,
 19 the term “officer candidate” has the meaning given the
 20 term in section 212 of the National Oceanic and Atmos-
 21 pheric Administration Commissioned Officer Corps Act of
 22 2002 (33 U.S.C. 3002), as added by section 205(c).

23 **SEC. 405. APPLICABILITY OF CERTAIN PROVISIONS OF**
 24 **TITLE 10, UNITED STATES CODE.**

25 Section 261(a) (33 U.S.C. 3071(a)) is amended—

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

3 (2) by redesignating paragraphs (7) through
4 (12) as paragraphs (12) through (17), respectively;

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

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

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

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

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

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

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

19 “~~(11)~~ Chapter 58, relating to the Benefits and
20 Services for members being separated or recently
21 separated.”; and

22 (6) by inserting after paragraph (17), as redес-
23 ignated, the following:

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

1 “(19) Section 2005, relating to advanced edu-
 2 cation assistance, active duty agreements, and reim-
 3 bursement requirements.”.

4 **SEC. 406. APPLICABILITY OF CERTAIN PROVISIONS OF**
 5 **TITLE 37, UNITED STATES CODE.**

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

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

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

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

18 “(2) Section 403(f)(3), relating to prescribing
 19 regulations defining the terms ‘field duty’ and ‘sea
 20 duty’.

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

24 “(4) Section 414(a)(2), relating to personal
 25 money allowance while serving as Director of the

1 National Oceanic and Atmospheric Administration
 2 Commissioned Officer Corps.

3 “(5) Section 428, relating to allowances for re-
 4 cruiting expenses.

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

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

14 (b) CLERICAL AMENDMENT.—The table of sections
 15 in section 1 of the Act entitled “An Act to authorize the
 16 Hydrographic Service Improvement Act of 1998, and for
 17 other purposes” (Public Law 107–372), as amended by
 18 section 404(b), is further amended by inserting after the
 19 item relating to section 269 the following:

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

20 **SEC. 407. APPLICATION OF CERTAIN PROVISIONS OF COM-**
 21 **PETITIVE SERVICE LAW.**

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

1 (1) in paragraph (1), by inserting “and mem-
 2 bers of the commissioned officer corps of the Na-
 3 tional Oceanic and Atmospheric Administration (or
 4 its predecessor organization the Coast and Geodetic
 5 Survey) separated from such uniformed service”
 6 after “separated from the armed forces”;

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

9 (3) in paragraph (4), by inserting “and mem-
 10 bers of the commissioned officer corps of the Na-
 11 tional Oceanic and Atmospheric Administration (or
 12 its predecessor organization the Coast and Geodetic
 13 Survey) separated from such uniformed service”
 14 after “separated from the armed forces”.

15 **SEC. 408. ELIGIBILITY OF ALL MEMBERS OF UNIFORMED**
 16 **SERVICES FOR LEGION OF MERIT AWARD.**

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

20 **SEC. 409. APPLICATION OF EMPLOYMENT AND REEMPLOY-**
 21 **MENT RIGHTS OF MEMBERS OF THE UNI-**
 22 **FORMED SERVICES TO MEMBERS OF COM-**
 23 **MISSIONED OFFICER CORPS.**

24 Section 4303(16) of title 38, United States Code, is
 25 amended by inserting “the commissioned officer corps of

1 the National Oceanic and Atmospheric Administration,”
 2 after “Public Health Service.”

3 **SEC. 410. PROTECTED COMMUNICATIONS FOR COMMIS-**
 4 **SIGNED OFFICER CORPS AND PROHIBITION**
 5 **OF RETALIATORY PERSONNEL ACTIONS.**

6 (a) IN GENERAL.—Subsection (a) of section 261 (33
 7 U.S.C. 3071), as amended by section 405, is further
 8 amended—

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

12 (2) by inserting after paragraph (7) the fol-
 13 lowing:

14 “(8) Section 1034, relating to protected com-
 15 munications and prohibition of retaliatory personnel
 16 actions.”.

17 (b) CONFORMING AMENDMENT.—Subsection (b) of
 18 such section is amended by adding at the end the fol-
 19 lowing: “For purposes of paragraph (8) of subsection (a),
 20 the term ‘Inspector General’ in section 1034 of such title
 21 40 shall mean the Inspector General of the Department
 22 of Commerce.”.

1 **SEC. 411. CRIMINAL PENALTIES FOR WEARING UNIFORM**
 2 **WITHOUT AUTHORITY.**

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

7 **TITLE V—OTHER MATTERS**

8 **SEC. 501. TECHNICAL CORRECTION.**

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

12 **SEC. 502. REPORT.**

13 (a) IN GENERAL.—Not later than 90 days after the
 14 date of the enactment of this Act, the Secretary of Com-
 15 merce shall submit to Congress a report evaluating the
 16 current status and projected needs of the commissioned
 17 officer corps of the National Oceanic and Atmospheric Ad-
 18 ministration to operate sufficiently through fiscal year
 19 2017.

20 (b) CONTENTS.—The report required by subsection
 21 (a) shall include the following:

22 (1) The average annual attrition rate of officers
 23 in the commissioned officer corps of the National
 24 Oceanic and Atmospheric Administration.

25 (2) An estimate of the number of annual re-
 26 cruits that would reasonably be required to operate

1 the commissioned officer corps sufficiently through
 2 fiscal year 2017.

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

5 (4) Identification of areas of duplication or un-
 6 necessary redundancy in current activities of the
 7 commissioned officer corps that could otherwise be
 8 streamlined or eliminated to save costs.

9 (5) Such other matters as the Secretary con-
 10 siderers appropriate regarding the provisions of this
 11 Act and the amendments made by this Act.

12 **SEC. 503. EFFECTIVE DATE.**

13 Notwithstanding any other provision of this Act, sec-
 14 tions 101 through 411 shall take effect on the date that
 15 is 90 days after the date on which the Secretary of Com-
 16 merce submits to Congress the report required by section
 17 502(a).

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

19 (a) *SHORT TITLE.*—This Act may be cited as the “Na-
 20 tional Oceanic and Atmospheric Administration Commis-
 21 sioned Officer Corps Amendments Act of 2013”.

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

Sec. 1. Short title; table of contents.

*Sec. 2. References to National Oceanic and Atmospheric Administration Commis-
 sioned Officer Corps Act of 2002.*

TITLE I—GENERAL PROVISIONS

- Sec. 101. Strength and distribution in grade.*
- Sec. 102. Exclusion of officers recalled from retired status and positions of importance and responsibility from number of authorized commissioned officers.*
- Sec. 103. Obligated service requirement.*
- Sec. 104. Training and physical fitness.*

TITLE II—APPOINTMENTS AND PROMOTION OF OFFICERS

- Sec. 201. Appointments.*
- Sec. 202. Personnel boards.*
- Sec. 203. Delegation of authority for appointments and promotions to permanent grades.*
- Sec. 204. Temporary appointments.*
- Sec. 205. Officer candidates.*
- Sec. 206. Procurement of personnel.*

TITLE III—SEPARATION AND RETIREMENT OF OFFICERS

- Sec. 301. Involuntary retirement or separation.*
- Sec. 302. Separation pay.*

TITLE IV—RIGHTS AND BENEFITS

- Sec. 401. Education loan repayment program.*
- Sec. 402. Interest payment program.*
- Sec. 403. Student pre-commissioning education assistance program.*
- Sec. 404. Limitation on educational assistance.*
- Sec. 405. Applicability of certain provisions of title 10, United States Code.*
- Sec. 406. Applicability of certain provisions of title 37, United States Code.*
- Sec. 407. Application of certain provisions of competitive service law.*
- Sec. 408. Eligibility of all members of uniformed services for Legion of Merit award.*
- Sec. 409. Application of Employment and Reemployment Rights of Members of the Uniformed Services to members of commissioned officer corps.*
- Sec. 410. Protected communications for commissioned officer corps and prohibition of retaliatory personnel actions.*
- Sec. 411. Criminal penalties for wearing uniform without authority.*

TITLE V—OTHER MATTERS

- Sec. 501. Technical correction.*
- Sec. 502. Report.*
- Sec. 503. Effective date.*

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

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

11 **TITLE I—GENERAL PROVISIONS**

12 **SEC. 101. STRENGTH AND DISTRIBUTION IN GRADE.**

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

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

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

19 *“(1) Vice admiral.*

20 *“(2) Rear admiral.*

21 *“(3) Rear admiral (lower half).*

22 *“(4) Captain.*

23 *“(5) Commander.*

24 *“(6) Lieutenant commander.*

25 *“(7) Lieutenant.*

26 *“(8) Lieutenant (junior grade).*

1 “(9) *Ensign.*

2 “(b) *PROPORTION.—*

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

6 “(A) *8 in the grade of captain.*

7 “(B) *14 in the grade of commander.*

8 “(C) *19 in the grade of lieutenant com-*
9 *mander.*

10 “(2) *GRADES BELOW LIEUTENANT COM-*
11 *MANDER.—The Secretary shall prescribe, with respect*
12 *to the distribution on the lineal list in grade, the per-*
13 *centages applicable to the grades of lieutenant, lieu-*
14 *tenant (junior grade), and ensign.*

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

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

20 “(2) *METHOD OF COMPUTATION.—The number*
21 *in each grade shall be computed by applying the ap-*
22 *plicable percentage to the total number of such officers*
23 *serving on active duty on the date the computation is*
24 *made.*

11 “(e) POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—Officers serving in positions designated under sec-
12 tion 228(a) and officers recalled from retired status shall
13 not be counted when computing authorized strengths under
14 subsection (c) and shall not count against those strengths.
15

21 **SEC. 102. EXCLUSION OF OFFICERS RECALLED FROM RE-**
22 **TIRED STATUS AND POSITIONS OF IMPOR-**
23 **TANCE AND RESPONSIBILITY FROM NUMBER**
24 **OF AUTHORIZED COMMISSIONED OFFICERS.**

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

3 “(a) *IN GENERAL.—Effective*”; and

4 (2) *by adding at the end the following new sub-*
 5 *section:*

6 “(b) *POSITIONS OF IMPORTANCE AND RESPONSI-*
 7 *BILITY.—Officers serving in positions designated under sec-*
 8 *tion 228 and officers recalled from retired status—*

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

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

13 **SEC. 103. OBLIGATED SERVICE REQUIREMENT.**

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

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

17 “(a) *IN GENERAL.—*

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

23 “(2) *WRITTEN AGREEMENTS.—The Secretary*
 24 *and officers shall enter into written agreements that*
 25 *describe the officers’ obligated service requirements*

1 *prescribed under paragraph (1) in return for such ap-*
2 *pointments, training, promotions, separations, and*
3 *retirements as the Secretary considers appropriate.*

4 “(b) *REPAYMENT FOR FAILURE TO SATISFY REQUIRE-*
5 *MENTS.—*

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

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

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

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

4 “(1) *becomes unqualified to serve on active duty*
 5 *in the commissioned officer corps of the Administra-*
 6 *tion because of a circumstance not within the control*
 7 *of that officer; or*

8 “(2) *is—*

9 “(A) *not physically qualified for appoint-*
 10 *ment; and*

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

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 215 the following:*

 “Sec. 216. *Obligated service requirement.*”.

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

22 (a) *IN GENERAL.*—*Subtitle A (33 U.S.C. 3001 et seq.),*
 23 *as amended by section 103(a), is further amended by add-*
 24 *ing at the end the following:*

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

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

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

16 “(2) *Providing officers and officer candidates*
17 *with books and school supplies.*

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

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

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

1 *graphic Service Improvement Act of 1998, and for other*
 2 *purposes” (Public Law 107–372), as amended by section*
 3 *103(b), is further amended by inserting after the item relat-*
 4 *ing to section 216 the following:*

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

5 ***TITLE II—APPOINTMENTS AND*** 6 ***PROMOTION OF OFFICERS***

7 ***SEC. 201. APPOINTMENTS.***

8 *(a) ORIGINAL APPOINTMENTS.—*

9 *(1) IN GENERAL.—Section 221 (33 U.S.C. 3021)*
 10 *is amended to read as follows:*

11 ***“SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINT-***
 12 ***MENTS.***

13 *“(a) ORIGINAL APPOINTMENTS.—*

14 *“(1) GRADES.—*

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

19 *“(i) the qualification, experience, and*
 20 *length of service of the appointee; and*

21 *“(ii) the commissioned officer corps of*
 22 *the Administration.*

23 *“(B) APPOINTMENT OF OFFICER CAN-*
 24 *DIDATES.—*

1 “(i) *LIMITATION ON GRADE.*—An origi-
2 *nal appointment of an officer candidate,*
3 *upon graduation from the basic officer*
4 *training program of the commissioned offi-*
5 *cer corps of the Administration, may not be*
6 *made in any other grade than ensign.*

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

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

15 “(A) *Graduates of the basic officer training*
16 *program of the commissioned officer corps of the*
17 *Administration.*

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

23 “(C) *Licensed officers of the United States*
24 *merchant marine who have served 2 or more*
25 *years aboard a vessel of the United States in the*

1 *capacity of a licensed officer, who otherwise meet*
 2 *the academic standards for enrollment in the*
 3 *training program described in subparagraph*
 4 *(A).*

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

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

11 “(B) *The United States Naval Academy,*
 12 *Annapolis, Maryland.*

13 “(C) *The United States Air Force Academy,*
 14 *Colorado Springs, Colorado.*

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

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

19 “(b) *REAPPOINTMENT.*—

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

1 “(2) *REAPPOINTMENTS TO HIGHER GRADES.*—

2 *An appointment under paragraph (1) to a position of*
 3 *importance and responsibility designated under sec-*
 4 *tion 228 may only be made by the President.*

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

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

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

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

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

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

6 (2) *CLERICAL AMENDMENT.*—The table of sec-
 7 tions in section 1 of the Act entitled “An Act to au-
 8 thorize the Hydrographic Service Improvement Act of
 9 1998, and for other purposes” (Public Law 107–372)
 10 is amended by striking the item relating to section
 11 221 and inserting the following:

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

12 **SEC. 202. PERSONNEL BOARDS.**

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

15 **“SEC. 222. PERSONNEL BOARDS.**

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

19 “(b) *MEMBERSHIP.*—

20 “(1) *IN GENERAL.*—A board convened under sub-
 21 section (a) shall consist of 5 or more officers who are
 22 serving in or above the permanent grade of the offi-
 23 cers under consideration by the board.

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

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

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

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

13 “(2) *make selections and recommendations to the*
 14 *Secretary and the President for the appointment, pro-*
 15 *motion, involuntary separation, continuation, and*
 16 *involuntary retirement of officers in the commissioned*
 17 *officer corps of the Administration as prescribed in*
 18 *this title.*

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

1 **SEC. 203. DELEGATION OF AUTHORITY FOR APPOINTMENTS**
 2 **AND PROMOTIONS TO PERMANENT GRADES.**

3 *Section 226 (33 U.S.C. 3026) is amended—*

4 *(1) by striking “Appointments” and inserting*
 5 *the following:*

6 *“(a) IN GENERAL.—Appointments”; and*

7 *(2) by adding at the end the following:*

8 *“(b) DELEGATION OF APPOINTMENT AUTHORITY.—If*
 9 *the President delegates authority to the Secretary to make*
 10 *appointments under this section, the President shall, during*
 11 *a period in which the position of the Secretary is vacant,*
 12 *delegate such authority to the Deputy Secretary of Com-*
 13 *merce or the Under Secretary for Oceans and Atmosphere*
 14 *during such period.”.*

15 **SEC. 204. TEMPORARY APPOINTMENTS.**

16 *(a) IN GENERAL.—Section 229 (33 U.S.C. 3029) is*
 17 *amended to read as follows:*

18 **“SEC. 229. TEMPORARY APPOINTMENTS.**

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

22 *“(b) TERMINATION.—A temporary appointment to a*
 23 *position under subsection (a) shall terminate upon ap-*
 24 *proval of a permanent appointment for such position made*
 25 *by the President.*

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

7 “(d) *ANY ONE GRADE.*—When determined by the Sec-
 8 retary to be in the best interest of the commissioned officer
 9 corps, officers in any permanent grade may be temporarily
 10 promoted one grade by the President. Any such temporary
 11 promotion terminates upon the transfer of the officer to a
 12 new assignment.

13 “(e) *DELEGATION OF APPOINTMENT AUTHORITY.*—If
 14 the President delegates authority to the Secretary to make
 15 appointments under this section, the President shall, during
 16 a period in which the position of the Secretary is vacant,
 17 delegate such authority to the Deputy Secretary of Com-
 18 merce or the Under Secretary for Oceans and Atmosphere
 19 during such period.”.

20 “(b) *CLERICAL AMENDMENT.*—The table of sections in
 21 section 1 of the Act entitled “An Act to authorize the Hydro-
 22 graphic Service Improvement Act of 1998, and for other
 23 purposes” (Public Law 107–372) is amended by striking
 24 the item relating to section 229 and inserting the following:

“Sec. 229. *Temporary appointments.*”.

1 **SEC. 205. OFFICER CANDIDATES.**

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

4 **“SEC. 234. OFFICER CANDIDATES.**

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

8 “(b) *APPOINTMENT.*—*Appointment of officer can-*
 9 *didates shall be made under regulations which the Secretary*
 10 *shall prescribe, including regulations with respect to deter-*
 11 *mining age limits, methods of selection of officer candidates,*
 12 *term of service as an officer candidate before graduation*
 13 *from the program, and all other matters affecting such ap-*
 14 *pointment.*

15 “(c) *DISMISSAL.*—*The Secretary may dismiss from the*
 16 *basic officer training program of the Administration any*
 17 *officer candidate who, during the officer candidate’s term*
 18 *as an officer candidate, the Secretary considers unsatisfac-*
 19 *tory in either academics or conduct, or not adapted for a*
 20 *career in the commissioned officer corps of the Administra-*
 21 *tion. Officer candidates shall be subject to rules governing*
 22 *discipline prescribed by the Director of the National Oce-*
 23 *anic and Atmospheric Administration Commissioned Offi-*
 24 *cer Corps.*

25 “(d) *AGREEMENT.*—

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

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

9 “(A) *That the officer candidate will com-*
 10 *plete the course of instruction at the basic officer*
 11 *training program of the Administration.*

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

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

16 “(ii) *will serve on active duty for at*
 17 *least 4 years immediately after such ap-*
 18 *pointment.*

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

22 “(1) *standards for determining what constitutes*
 23 *a breach of an agreement signed under such sub-*
 24 *section (d)(1); and*

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

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

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

“Sec. 234. Officer candidates.”.

12 (c) *OFFICER CANDIDATE DEFINED*.—Section 212(b)
13 (33 U.S.C. 3002(b)) is amended—

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

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

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

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

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

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

14 **SEC. 206. PROCUREMENT OF PERSONNEL.**

15 (a) *IN GENERAL.*—Subtitle B (33 U.S.C. 3021 et seq.),
 16 *as amended by section 205(a), is further amended by add-*
 17 *ing at the end the following:*

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

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

23 (b) *CLERICAL AMENDMENT.*—*The table of sections in*
 24 *section 1 of the Act entitled “An Act to authorize the Hydro-*
 25 *graphic Service Improvement Act of 1998, and for other*

1 purposes” (Public Law 107–372), as amended by section
 2 205(b), is further amended by inserting after the item relat-
 3 ing to section 234 the following:

“235. Procurement of personnel.”.

4 **TITLE III—SEPARATION AND** 5 **RETIREMENT OF OFFICERS**

6 **SEC. 301. INVOLUNTARY RETIREMENT OR SEPARATION.**

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

9 “(d) DEFERMENT OF RETIREMENT OR SEPARATION
 10 FOR MEDICAL REASONS.—

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

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

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

5 **SEC. 302. SEPARATION PAY.**

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

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

11 “(1) expresses a desire not to be selected for pro-
 12 motion; or

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

14 **TITLE IV—RIGHTS AND**
 15 **BENEFITS**

16 **SEC. 401. EDUCATION LOAN REPAYMENT PROGRAM.**

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

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

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

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

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

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

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

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

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

17 “(c) *ACADEMIC AND PROFESSIONAL REQUIRE-*
18 *MENTS.*—One of the following academic requirements must
19 be satisfied for purposes of determining the eligibility of an
20 individual for a loan repayment under this section:

21 “(1) The person is fully qualified in a profession
22 that the Secretary has determined to be necessary to
23 meet identified skill shortages in the commissioned of-
24 ficer corps.

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

7 “(d) *LOAN REPAYMENTS.—*

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

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

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

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

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

24 “(A) *IN GENERAL.—Except as provided in*
 25 *subparagraph (B), the length of the obligation*

1 under paragraph (1) shall be determined under
2 regulations prescribed by the Secretary.

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

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

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

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

21 “(2) *REPAYMENT.*—An officer who does not com-
22 plete the period of active duty specified in the agree-
23 ment entered into under subsection (b)(3), or the al-
24 ternative obligation imposed under paragraph (1),

1 *shall be subject to the repayment provisions under sec-*
 2 *tion 216.*

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

5 “(1) *standards for qualified loans and authorized*
 6 *payees; and*

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

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

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

14 **SEC. 402. INTEREST PAYMENT PROGRAM.**

15 “(a) *IN GENERAL.*—*Subtitle E (33 U.S.C. 3071 et seq.),*
 16 *as amended by section 401(a), is further amended by add-*
 17 *ing at the end the following:*

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

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

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 de-*
4 *scribed 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 (20*
13 *U.S.C. 1087a et seq.).*

14 “(3) *A loan made under part E of such title (20*
15 *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 use*
21 *amounts appropriated for the pay and allowances of per-*
22 *sonnel of the commissioned officer corps of the Administra-*
23 *tion 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 admin-*
 3 *istration of this section.*

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

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 B,*
 17 *D, and E of title IV of the Higher Education Act*
 18 *of 1965 (20 U.S.C. 1071 et seq., 1087a et seq.,*
 19 *1087aa et seq.).*

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

24 (b) *CONFORMING AMENDMENTS.*—

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

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

7 (B) *in paragraph (1)—*

8 (i) *by inserting “or section 264 of the*
 9 *National Oceanic and Atmospheric Admin-*
 10 *istration Commissioned Officer Corps Act of*
 11 *2002” after “Code,”; and*

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

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

19 (A) *by striking the subsection heading and*
 20 *inserting “ARMED FORCES AND NOAA COMMIS-*
 21 *SIONED OFFICER CORPS STUDENT LOAN INTER-*
 22 *EST PAYMENT PROGRAMS”;* and

23 (B) *in paragraph (1)—*

24 (i) *by inserting “or section 264 of the*
 25 *National Oceanic and Atmospheric Admin-*

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

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

7 *(c) CLERICAL AMENDMENT.—The table of sections in*
 8 *section 1 of the Act entitled “An Act to authorize the Hydro-*
 9 *graphic Service Improvement Act of 1998, and for other*
 10 *purposes” (Public Law 107–372), as amended by section*
 11 *401(b), is further amended by inserting after the item relat-*
 12 *ing to section 267 the following:*

“Sec. 268. Interest payment program.”.

13 **SEC. 403. STUDENT PRE-COMMISSIONING EDUCATION AS-**
 14 **SISTANCE PROGRAM.**

15 *(a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et seq.),*
 16 *as amended by sections 401(a) and 402(a), is further*
 17 *amended by adding at the end the following:*

18 **“SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION AS-**
 19 **SISTANCE PROGRAM.**

20 *“(a) AUTHORITY TO PROVIDE FINANCIAL ASSIST-*
 21 *ANCE.—For the purpose of maintaining adequate numbers*
 22 *of officers of the commissioned officer corps of the Adminis-*
 23 *tration on active duty, the Secretary may provide financial*
 24 *assistance to a person described in subsection (b) for ex-*
 25 *penses of the person while the person is pursuing on a full-*

1 *time basis at an accredited educational institution (as de-*
 2 *termined by the Secretary of Education) a program of edu-*
 3 *cation approved by the Secretary that leads to—*

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

6 “(2) *a postbaccalaureate degree.*

7 “(b) *ELIGIBLE PERSONS.—*

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

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

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

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

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

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

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

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

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

10 “(c) *QUALIFYING EXPENSES.*—*Expenses for which fi-*
11 *nancial assistance may be provided under subsection (a)*
12 *are the following:*

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

15 “(2) *The cost of books.*

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

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

20 “(d) *LIMITATION ON AMOUNT.*—*The Secretary shall*
21 *prescribe the amount of financial assistance provided to a*
22 *person under subsection (a), which may not exceed the*
23 *amount specified in section 2173(e)(2) of title 10, United*
24 *States Code, for each year of obligated service that a person*

1 *agrees to serve in an agreement described in subsection*
 2 *(b)(2).*

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

6 “(f) *SUBSISTENCE ALLOWANCE.—*

7 “(1) *IN GENERAL.—A person who receives finan-*
 8 *cial assistance under subsection (a) shall be entitled*
 9 *to a monthly subsistence allowance at a rate pre-*
 10 *scribed under paragraph (2) for the duration of the*
 11 *period for which the person receives such financial as-*
 12 *sistance.*

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

18 “(g) *INITIAL CLOTHING ALLOWANCE.—*

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

24 “(2) *APPOINTMENT.—Upon completion of the*
 25 *program of education for which a person receives fi-*

1 *nancial assistance under subsection (a) and accept-*
 2 *ance of appointment in the commissioned officer corps*
 3 *of the Administration, the person may be issued a*
 4 *subsequent clothing allowance equivalent to that nor-*
 5 *mally provided to a newly appointed officer.*

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

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

10 *“(A) the Secretary accepts a request by the*
 11 *person to be released from an agreement de-*
 12 *scribed in subsection (b)(2);*

13 *“(B) the misconduct of the person results in*
 14 *a failure to complete the period of active duty re-*
 15 *quired under the agreement; or*

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

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

1 *period of active duty the officer agreed to serve under*
 2 *the agreement.*

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

7 “(A) *becomes unqualified to serve on active*
 8 *duty in the commissioned officer corps of the Ad-*
 9 *ministration because of a circumstance not with-*
 10 *in the control of that person; or*

11 “(B) *is—*

12 “(i) *not physically qualified for ap-*
 13 *pointment; and*

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

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

24 “(5) *DISCHARGE IN BANKRUPTCY.—A discharge*
 25 *in bankruptcy under title 11, United States Code,*

1 *that is entered less than 5 years after the termination*
 2 *of a written agreement entered into under subsection*
 3 *(b)(1)(C) does not discharge the person signing the*
 4 *agreement from a debt arising under such agreement*
 5 *or under paragraph (2).*

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

9 (b) *CLERICAL AMENDMENT.—The table of sections in*
 10 *section 1 of the Act entitled “An Act to authorize the Hydro-*
 11 *graphic Service Improvement Act of 1998, and for other*
 12 *purposes” (Public Law 107–372), as amended by section*
 13 *402(c), is further amended by inserting after the item relat-*
 14 *ing to section 268 the following:*

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

15 **SEC. 404. LIMITATION ON EDUCATIONAL ASSISTANCE.**

16 (a) *IN GENERAL.—Each fiscal year, beginning with*
 17 *fiscal year 2013, the Secretary of Commerce shall ensure*
 18 *that the total amount expended by the Secretary under sec-*
 19 *tion 267 of the National Oceanic and Atmospheric Admin-*
 20 *istration Commissioned Officer Corps Act of 2002 (as added*
 21 *by section 401(a)), section 268 of such Act (as added by*
 22 *section 402(a)), and section 269 of such Act (as added by*
 23 *section 403(a)) does not exceed the amount by which—*

24 (1) *the total amount the Secretary would pay in*
 25 *that fiscal year to officer candidates under section*

1 203(f)(1) of title 37, United States Code (as added by
 2 section 205(d)), if such section entitled officers can-
 3 didates to pay at monthly rates equal to the basic pay
 4 of a commissioned officer in the pay grade O–1 with
 5 less than 2 years of service; exceeds

6 (2) the total amount the Secretary actually pays
 7 in that fiscal year to officer candidates under section
 8 203(f)(1) of such title (as so added).

9 (b) *OFFICER CANDIDATE DEFINED.*—In this section,
 10 the term “officer candidate” has the meaning given the term
 11 in section 212 of the National Oceanic and Atmospheric
 12 Administration Commissioned Officer Corps Act of 2002
 13 (33 U.S.C. 3002), as added by section 205(c).

14 **SEC. 405. APPLICABILITY OF CERTAIN PROVISIONS OF**
 15 **TITLE 10, UNITED STATES CODE.**

16 Section 261(a) (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:

1 “(4) Section 771, relating to unauthorized wear-
2 ing of uniforms.

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

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

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

9 (5) by inserting after paragraph (10), as redesign-
10 nated, the following:

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

14 (6) by inserting after paragraph (17), as redesign-
15 nated, the following:

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

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

21 **SEC. 406. APPLICABILITY OF CERTAIN PROVISIONS OF**
22 **TITLE 37, UNITED STATES CODE.**

23 (a) *IN GENERAL*.—Subtitle E (33 U.S.C. 3071 et seq.)
24 is amended by inserting after section 261 the following:

1 **“SEC. 261A. APPLICABILITY OF CERTAIN PROVISIONS OF**
 2 **TITLE 37, UNITED STATES CODE.**

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

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

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

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

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

20 “(5) *Section 488, relating to allowances for re-*
 21 *cruiting expenses.*

22 “(6) *Section 495, relating to allowances for fu-*
 23 *neral honors duty.*

24 “(b) *REFERENCES.*—*The authority vested by title 37,*
 25 *United States Code, in the ‘military departments’, ‘the Sec-*
 26 *retary concerned’, or ‘the Secretary of Defense’ with respect*

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

5 (b) *CLERICAL AMENDMENT.—The table of sections in*
 6 *section 1 of the Act entitled “An Act to authorize the Hydro-*
 7 *graphic Service Improvement Act of 1998, and for other*
 8 *purposes” (Public Law 107–372) is amended by inserting*
 9 *after the item relating to section 261 the following:*

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

10 **SEC. 407. APPLICATION OF CERTAIN PROVISIONS OF COM-**
 11 **PETITIVE SERVICE LAW.**

12 *Section 3304(f) of title 5, United States Code, is*
 13 *amended—*

14 (1) *in paragraph (1), by inserting “and mem-*
 15 *bers of the commissioned officer corps of the National*
 16 *Oceanic and Atmospheric Administration (or its*
 17 *predecessor organization the Coast and Geodetic Sur-*
 18 *vey) separated from such uniformed service” after*
 19 *“separated from the armed forces”;*

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

22 (3) *in paragraph (4), 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 **SEC. 408. ELIGIBILITY OF ALL MEMBERS OF UNIFORMED**
 4 **SERVICES FOR LEGION OF MERIT AWARD.**

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

8 **SEC. 409. APPLICATION OF EMPLOYMENT AND REEMPLOY-**
 9 **MENT RIGHTS OF MEMBERS OF THE UNI-**
 10 **FORMED SERVICES TO MEMBERS OF COMMIS-**
 11 **SIONED OFFICER CORPS.**

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

16 **SEC. 410. PROTECTED COMMUNICATIONS FOR COMMIS-**
 17 **SIONED OFFICER CORPS AND PROHIBITION**
 18 **OF RETALIATORY PERSONNEL ACTIONS.**

19 *(a) IN GENERAL.—Subsection (a) of section 261 (33*
 20 *U.S.C. 3071), as amended by section 405, is further amend-*
 21 *ed—*

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

24 *(2) by inserting after paragraph (7) the fol-*
 25 *lowing:*

1 “(8) Section 1034, relating to protected commu-
 2 nications and prohibition of retaliatory personnel ac-
 3 tions.”.

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

9 **SEC. 411. CRIMINAL PENALTIES FOR WEARING UNIFORM**
 10 **WITHOUT AUTHORITY.**

11 Section 702 of title 18, United States Code, is amended
 12 by striking “Service or any” and inserting “Service, the
 13 commissioned officer corps of the National Oceanic and At-
 14 mospheric Administration, or any”.

15 **TITLE V—OTHER MATTERS**

16 **SEC. 501. TECHNICAL CORRECTION.**

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

20 **SEC. 502. REPORT.**

21 (a) *IN GENERAL.*—Not later than 90 days after the
 22 date of the enactment of this Act, the Secretary of Commerce
 23 shall submit to Congress a report evaluating the current sta-
 24 tus and projected needs of the commissioned officer corps

1 *of the National Oceanic and Atmospheric Administration*
 2 *to operate sufficiently through fiscal year 2017.*

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

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

8 (2) *An estimate of the number of annual recruits*
 9 *that would reasonably be required to operate the com-*
 10 *missioned officer corps sufficiently through fiscal year*
 11 *2017.*

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

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

18 (5) *Such other matters as the Secretary considers*
 19 *appropriate regarding the provisions of this Act and*
 20 *the amendments made by this Act.*

21 **SEC. 503. EFFECTIVE DATE.**

22 *Notwithstanding any other provision of this Act, sec-*
 23 *tions 101 through 411 shall take effect on the date that is*
 24 *90 days after the date on which the Secretary of Commerce*
 25 *submits to Congress the report required by section 502(a).*

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113TH CONGRESS
2^D Session

S. 1068

[Report No. 113–133]

A BILL

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

JANUARY 8, 2014

Reported with an amendment