

On page 50, line 20, strike “by section 5” and insert “by section 4(a)”.

On page 55, lines 1 and 2, strike “, by and with the advice and consent of the Senate”.

On page 56, strike lines 9 through 19.

On page 58, line 15, strike “alone”.

On page 58, line 19, strike “alone”.

On page 59, line 4, strike “alone”.

On page 61, line 22, strike “such Act” and insert “the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002”.

On page 85, strike lines 1 through 12.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on December 20, 2012.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on December 20, 2012, at 2:30 p.m., in room SD-215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on December 20, 2012, at 9 a.m., to hold a hearing entitled, “Benghazi: The Attacks and the Lessons Learned.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on December 20, 2012, in SD-226 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING, TRANSPORTATION, AND COMMUNITY DEVELOPMENT

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs' Subcommittee on Housing, Transportation, and Community Development be authorized to meet during the session of the Senate on December 20, 2012, at 11 a.m., to conduct a hearing entitled “Recovering From Superstorm Sandy: Rebuilding Our Infrastructure.”

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. CARDIN. Mr. President, I ask unanimous consent that Janet Jacqueline Emanuel, a fellow in Senator MARK UDALL's office, be granted the privilege of the floor for the remainder of the Senate's session of the 112th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

MANILAQ ASSOCIATION CONVEYANCE ACT

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 566, H.R. 443.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 443) to provide for the conveyance of certain property from the United States to the Maniilaq Association located in Kotzebue, Alaska.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. I further ask that the Murkowski substitute amendment at the desk be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be considered made and laid on the table, with no intervening action or debate; and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3423) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. CONVEYANCE OF PROPERTY.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, but not later than 180 days after such date, the Secretary of Health and Human Services (in this Act referred to as the “Secretary”) shall convey to the Maniilaq Association located in Kotzebue, Alaska, all right, title, and interest of the United States in and to the property described in section 2 for use in connection with health and social services programs. The Secretary's conveyance of title by warranty deed under this section shall, on its effective date, supersede and render of no future effect on any Quitclaim Deed to the properties described in section 2 executed by the Secretary and the Maniilaq Association.

(b) CONDITIONS.—The conveyance required by this section shall be made by warranty deed without consideration and without imposing any obligation, term, or condition on the Maniilaq Association, or reversionary interest of the United States, other than that required by this Act or section 512(c)(2)(B) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aaa-11(c)(2)(B)).

SEC. 2. PROPERTY DESCRIBED.

The property, including all land and appurtenances, to be conveyed pursuant to section 1 is as follows:

(1) KOTZEBUE HOSPITAL AND LAND.—Re-Plat of Friends Mission Reserve, Subdivision No. 2, U.S. Survey 2082, Lot 1, Block 12, Kotzebue, Alaska, containing 8.10 acres recorded in the Kotzebue Recording District, Kotzebue, Alaska, on August 18, 2009.

(2) KOTZEBUE QUARTERS AKA KIC SITE.—Re-plat of Friends Mission Reserve, U.S. Survey 2082, Lot 1A, Block 13, Kotzebue, Alaska, containing 5.229 acres recorded in the Kotzebue Recording District, Kotzebue, Alaska, on December 23, 1991.

(3) KOTZEBUE QUARTERS AKA NANA SITE.—Lot 1B, Block 26, Tract A, Townsite of Kotzebue, U.S. Survey No. 2863 A, Kotzebue, Alaska, containing 1.29 acres recorded in the Kotzebue Recording District, Kotzebue, Alaska, on December 23, 1991.

SEC. 3. ENVIRONMENTAL LIABILITY.

(a) IN GENERAL.—Notwithstanding any other provision of Federal law, the Maniilaq Association shall not be liable for any soil, surface water, groundwater, or other con-

tamination resulting from the disposal, release, or presence of any environmental contamination, including any oil or petroleum products, or any hazardous substances, hazardous materials, hazardous waste, pollutants, toxic substances, solid waste, or any other environmental contamination or hazard as defined in any Federal or State of Alaska law, on any property described in section 2 on or before the date on which all of the properties described in section 2 were conveyed by quitclaim deed.

(b) EASEMENT.—The Secretary shall be accorded any easement or access to the property conveyed as may be reasonably necessary to satisfy any retained obligations and liability of the Secretary.

(c) NOTICE OF HAZARDOUS SUBSTANCE ACTIVITY AND WARRANTY.—The Secretary shall comply with section 120(h)(3)(A) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)(A)).

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 443), as amended, was read the third time and passed.

IMPROPER PAYMENTS ELIMINATION AND RECOVERY IMPROVEMENT ACT OF 2012

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4053, which was just received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4053) to intensify efforts to identify, prevent, and recover payment error, waste, fraud and abuse within Federal spending.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, with no intervening action or debate and that any related statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4053) was ordered to a third reading, was read the third time, and passed.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS AMENDMENTS ACT OF 2012

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 551, S. 2388.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2388) to reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the committee

on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2012”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Strength and distribution in grade.
- Sec. 3. Exclusion of officers recalled from retired status and positions of importance and responsibility from number of authorized commissioned officers.
- Sec. 4. Obligated service requirement.
- Sec. 5. Training and physical fitness.
- Sec. 6. Appointments.
- Sec. 7. Personnel boards.
- Sec. 8. Temporary appointments.
- Sec. 9. Officer candidates.
- Sec. 10. Involuntary retirement or separation.
- Sec. 11. Separation pay.
- Sec. 12. Applicability of certain provisions of title 10, United States Code.
- Sec. 13. Education loan repayment program.
- Sec. 14. Interest payment program.
- Sec. 15. Student pre-commissioning education assistance program.
- Sec. 16. Limitation on educational assistance.
- Sec. 17. Applicability of certain provisions of title 37, United States Code.
- Sec. 18. Application of certain provisions of competitive service law.
- Sec. 19. Eligibility of all members of uniformed services for Legion of Merit award.
- Sec. 20. Application of Employment and Reemployment Rights of Members of the Uniformed Services to members of commissioned officer corps.
- Sec. 21. Protected communications for commissioned officer corps and prohibition of retaliatory personnel actions.
- Sec. 22. Criminal penalties for wearing uniform without authority.
- Sec. 23. Report on status of officers in commissioned officer corps of National Oceanic and Atmospheric Administration and Public Health Service during Government shutdowns.
- Sec. 24. Technical correction.
- Sec. 25. Report.
- Sec. 26. Effective date.

SEC. 2. STRENGTH AND DISTRIBUTION IN GRADE.

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

“SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.

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

- “(1) Vice admiral.
- “(2) Rear admiral.
- “(3) Rear admiral (lower half).
- “(4) Captain.
- “(5) Commander.
- “(6) Lieutenant commander.
- “(7) Lieutenant.
- “(8) Lieutenant (junior grade).
- “(9) Ensign.

“(b) **PROPORTION.**—

“(1) **IN GENERAL.**—The officers on the lineal list shall be distributed in grade in the following percentages:

- “(A) 8 in the grade of captain.
- “(B) 14 in the grade of commander.
- “(C) 19 in the grade of lieutenant commander.

“(2) **GRADES BELOW LIEUTENANT COMMANDER.**—The Secretary shall prescribe, with respect to the distribution on the lineal list in grade, the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign.

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

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

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

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

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

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

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

SEC. 3. EXCLUSION OF OFFICERS RECALLED FROM RETIRED STATUS AND POSITIONS OF IMPORTANCE AND RESPONSIBILITY FROM NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

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

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

“(a) **IN GENERAL.**—Effective”; and

(2) by adding at the end the following new subsection:

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

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

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

SEC. 4. OBLIGATED SERVICE REQUIREMENT.

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

“SEC. 216. OBLIGATED SERVICE REQUIREMENT.

“(a) **IN GENERAL.**—

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

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

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

“(1) **IN GENERAL.**—The Secretary may require an officer who fails to meet the service requirements prescribed under subsection (a)(1) to reim-

burse the Secretary in an amount that bears the same ratio to the total costs of the training provided to that officer by the Secretary as the unserved portion of active duty bears to the total period of active duty the officer agreed to serve.

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

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

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

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

“(2) is—

“(A) not physically qualified for appointment; and

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

(b) **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) is amended by inserting after the item relating to section 215 the following:

“Sec. 216. Obligated service requirement.”

SEC. 5. TRAINING AND PHYSICAL FITNESS.

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

“SEC. 217. TRAINING AND PHYSICAL FITNESS.

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

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

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

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

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

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

“Sec. 217. Training and physical fitness.”

SEC. 6. APPOINTMENTS.

(a) **ORIGINAL APPOINTMENTS.**—

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

“SEC. 221. ORIGINAL APPOINTMENTS AND RE-APPOINTMENTS.

“(a) *ORIGINAL APPOINTMENTS.*—

“(1) *GRADES.*—

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

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

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

“(B) *APPOINTMENT OF OFFICER CANDIDATES.*—

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

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

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

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

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

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

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

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

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

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

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

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

“(b) *REAPPOINTMENT.*—

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

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

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

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

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

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

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

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

(2) *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) is amended by striking the item relating to section 221 and inserting the following:

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

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

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

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

SEC. 7. PERSONNEL BOARDS.

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

“SEC. 222. PERSONNEL BOARDS.

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

“(b) *MEMBERSHIP.*—

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

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

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

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

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

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

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

SEC. 8. TEMPORARY APPOINTMENTS.

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

“SEC. 229. TEMPORARY APPOINTMENTS.

“(a) *APPOINTMENTS BY PRESIDENT.*—Temporary appointments in the grade of ensign,

lieutenant junior grade, or lieutenant may be made by the President alone.

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

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

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

SEC. 9. OFFICER CANDIDATES.

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

“SEC. 234. OFFICER CANDIDATES.

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

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

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

“(d) *AGREEMENT.*—

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

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

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

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

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

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

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

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

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

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

(b) *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) is amended by inserting after the item relating to section 233 the following:

"Sec. 234. Officer candidates."

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

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

(2) by inserting after paragraph (3) the following:

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

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

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

"(2) An individual who graduates from such program shall receive credit for the time spent participating in such program as if such time were time served while on active duty as a commissioned officer. If the individual does not graduate from such program, such time shall not be considered creditable for active duty or pay."

SEC. 10. INVOLUNTARY RETIREMENT OR SEPARATION.

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

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

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

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

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

SEC. 11. SEPARATION PAY.

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

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

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

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

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

Section 261(a) of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071(a)) is amended—

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

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

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

(4) by inserting after paragraph (3) the following:

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

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

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

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

(5) by inserting after paragraph (10), as redesignated, the following:

"(11) Chapter 58, relating to the Benefits and Services for members being separated or recently separated."; and

(6) by inserting after paragraph (17), as redesignated, the following:

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

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

SEC. 13. EDUCATION LOAN REPAYMENT PROGRAM.

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

"SEC. 267. EDUCATION LOAN REPAYMENT PROGRAM.

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

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

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

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

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

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

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

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

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

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

"(d) LOAN REPAYMENTS.—

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

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

"(e) ACTIVE DUTY SERVICE OBLIGATION.—

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

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

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

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

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

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

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

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

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

"(1) standards for qualified loans and authorized payees; and

"(2) other terms and conditions for the making of loan repayments."

(b) 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) is amended by inserting after the item relating to section 266 the following:

"Sec. 267. Education loan repayment program."

SEC. 14. INTEREST PAYMENT PROGRAM.

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

"SEC. 268. INTEREST PAYMENT PROGRAM.

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

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

"(1) is serving on active duty;

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

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

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

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

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

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

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

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

"(e) FUNDS FOR PAYMENTS.—The Secretary may use amounts appropriated for the pay and

allowances of personnel of the commissioned officer corps of the Administration for payments under this section.

“(f) COORDINATION WITH SECRETARY OF EDUCATION.—

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

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

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

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

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

(b) CONFORMING AMENDMENTS.—

(1) Section 428(o) of the Higher Education Act of 1965 (20 U.S.C. 1078(o)) is 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”.

(2) Sections 455(l) and 464(j) of the Higher Education Act of 1965 (20 U.S.C. 1087e(l) and 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 13(b), is further amended by inserting after the item relating to section 267, as added by such section 13(b), the following:

“Sec. 268. Interest payment program.”.

SEC. 15. STUDENT PRE-COMMISSIONING EDUCATION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Subtitle E of title II of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.), as amended by sections 13 and 14, is further amended by adding at the end the following:

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

“(a) AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.—For the purpose of maintaining adequate numbers of officers of the commissioned officer corps of the Administration on active duty, the Secretary may provide financial assistance to a person described in subsection (b) for expenses of the person while the person is

pursuing on a full-time basis at an accredited educational institution (as determined by the Secretary of Education) a program of education approved by the Secretary that leads to—

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

“(2) a postbaccalaureate degree.

“(b) ELIGIBLE PERSONS.—

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

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

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

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

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

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

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

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

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

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

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

“(2) The cost of books.

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

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

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

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

“(f) SUBSISTENCE ALLOWANCE.—

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

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

“(g) INITIAL CLOTHING ALLOWANCE.—

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

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

“(h) TERMINATION OF FINANCIAL ASSISTANCE.—

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

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

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

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

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

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

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

“(B) is—

“(i) not physically qualified for appointment; and

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

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

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

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

(b) 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 14(c), is further amended by inserting after the item relating to section 268, as added by such section 14(c), the following:

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

SEC. 16. LIMITATION ON EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Each fiscal year, beginning with fiscal year 2013, the Secretary of Commerce shall ensure that the total amount expended by the Secretary under section 267 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (as added by section 13(a)), section 268 of such Act (as added by section 14(a)), and section 269 of such Act (as added by section 15(a)) does not exceed the amount by which—

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

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

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

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

(a) IN GENERAL.—Subtitle E of title 11 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.), as amended by sections 13 through 15, is further amended by adding at the end the following:

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

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

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

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

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

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

“(5) Section 428, relating to allowances for recruiting expenses.

“(6) Section 435, relating to allowances for funeral honors duty.

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

(b) 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 15(b), is further amended by inserting after the item relating to section 269, as added by such section 15(b), the following:

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

SEC. 18. APPLICATION OF CERTAIN PROVISIONS OF COMPETITIVE SERVICE LAW.

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

(1) in paragraph (1), by inserting “and members of the commissioned officer corps of the National Oceanic and Atmospheric Administration (or its predecessor organization the Coast and Geodetic Survey) separated from such uniformed service” after “separated from the armed forces”;

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

(3) in paragraph (4), by inserting “and members of the commissioned officer corps of the National Oceanic and Atmospheric Administration (or its predecessor organization the Coast and Geodetic Survey) separated from such uniformed service” after “separated from the armed forces”.

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

Section 1121 of title 10, United States Code, is amended by striking “armed forces” and inserting “uniformed services”.

SEC. 20. APPLICATION OF EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES TO MEMBERS OF COMMISSIONED OFFICER CORPS.

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

SEC. 21. PROTECTED COMMUNICATIONS FOR COMMISSIONED OFFICER CORPS AND PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.

(a) IN GENERAL.—Subsection (a) of section 261 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071(a)), as amended by section 12, is further amended—

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

(2) by inserting after paragraph (7) the following:

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

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

SEC. 22. CRIMINAL PENALTIES FOR WEARING UNIFORM WITHOUT AUTHORITY.

Section 702 of title 18, United States Code, is amended by striking “Service or any” and inserting “Service, the commissioned officer corps of the National Oceanic and Atmospheric Administration, or any”.

SEC. 23. REPORT ON STATUS OF OFFICERS IN COMMISSIONED OFFICER CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AND PUBLIC HEALTH SERVICE DURING GOVERNMENT SHUTDOWNS.

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

SEC. 24. TECHNICAL CORRECTION.

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

SEC. 25. REPORT.

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

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

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

(2) An estimate of the number of annual recruits that would reasonably be required to operate the commissioned officer corps sufficiently through fiscal year 2017.

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

(4) Identification of areas of duplication or unnecessary redundancy in current activities of the commissioned officer corps that could otherwise be streamlined or eliminated to save costs.

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

SEC. 26. EFFECTIVE DATE.

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

Mr. DURBIN. Mr. President, I further ask unanimous consent that the committee-reported substitute amendment be considered; the Begich amendment,

which is at the desk, be agreed to; the committee-reported substitute, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid on the table with no intervening action or debate; and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3424) was agreed to, as follows:

On page 50, line 20, strike “by section 5” and insert “by section 4(a)”.

On page 55, lines 1 and 2, strike “, by and with the advice and consent of the Senate”.

On page 56, strike lines 9 through 19.

On page 58, line 15, strike “alone”.

On page 58, line 19, strike “alone”.

On page 59, line 4, strike “alone”.

On page 61, line 22, strike “such Act” and insert “the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002”.

On page 85, strike lines 1 through 12.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2388) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2388

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2012”.

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

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

Sec. 23. Technical correction.

Sec. 24. Report.

Sec. 25. Effective date.

SEC. 2. STRENGTH AND DISTRIBUTION IN GRADE.

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

“SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.

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

“(1) Vice admiral.

“(2) Rear admiral.

“(3) Rear admiral (lower half).

“(4) Captain.

“(5) Commander.

“(6) Lieutenant commander.

“(7) Lieutenant.

“(8) Lieutenant (junior grade).

“(9) Ensign.

“(b) PROPORTION.—

“(1) IN GENERAL.—The officers on the lineal list shall be distributed in grade in the following percentages:

“(A) 8 in the grade of captain.

“(B) 14 in the grade of commander.

“(C) 19 in the grade of lieutenant commander.

“(2) GRADES BELOW LIEUTENANT COMMANDER.—The Secretary shall prescribe, with respect to the distribution on the lineal list in grade, the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign.

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

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

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

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

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

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

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

SEC. 3. EXCLUSION OF OFFICERS RECALLED FROM RETIRED STATUS AND POSITIONS OF IMPORTANCE AND RESPONSIBILITY FROM NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

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

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

“(a) IN GENERAL.—Effective”; and

(2) by adding at the end the following new subsection:

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

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

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

SEC. 4. OBLIGATED SERVICE REQUIREMENT.

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

“SEC. 216. OBLIGATED SERVICE REQUIREMENT.

“(a) IN GENERAL.—

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

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

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

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

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

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

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

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

“(2) is—

“(A) not physically qualified for appointment; and

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

(b) 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) is amended by inserting after the item relating to section 215 the following:

“Sec. 216. Obligated service requirement.”.

SEC. 5. TRAINING AND PHYSICAL FITNESS.

(a) IN GENERAL.—Subtitle A of title II of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.), as amended by section 4(a), is further amended by adding at the end the following:

“SEC. 217. TRAINING AND PHYSICAL FITNESS.

“(a) TRAINING.—The Secretary may take such measures as may be necessary to ensure

that officers are prepared to carry out their duties in the commissioned officer corps of the Administration and proficient in the skills necessary to carry out such duties. Such measures may include the following:

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

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

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

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

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

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

SEC. 6. APPOINTMENTS.

(a) ORIGINAL APPOINTMENTS.—

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

“SEC. 221. ORIGINAL APPOINTMENTS AND RE-APPOINTMENTS.

“(a) ORIGINAL APPOINTMENTS.—

“(1) GRADES.—

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

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

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

“(B) APPOINTMENT OF OFFICER CANDIDATES.—

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

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

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

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

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

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

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

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

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

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

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

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

“(b) REAPPOINTMENT.—

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

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

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

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

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

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

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

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

(2) 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) is amended by striking the item relating to section 221 and inserting the following:

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

SEC. 7. PERSONNEL BOARDS.

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

“SEC. 222. PERSONNEL BOARDS.

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

“(b) MEMBERSHIP.—

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

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

“(3) NO MEMBERSHIP ON 2 SUCCESSIVE BOARDS.—No officer may be a member of 2 successive personnel boards convened to con-

sider officers of the same grade for promotion or separation.

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

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

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

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

SEC. 8. TEMPORARY APPOINTMENTS.

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

“SEC. 229. TEMPORARY APPOINTMENTS.

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

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

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

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

SEC. 9. OFFICER CANDIDATES.

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

“SEC. 234. OFFICER CANDIDATES.

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

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

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

“(d) AGREEMENT.—

“(1) IN GENERAL.—Each officer candidate shall sign an agreement with the Secretary in accordance with section 216(a)(2) regard-

ing the officer candidate’s term of service in the commissioned officer corps of the Administration.

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

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

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

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

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

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

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

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

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

(b) 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) is amended by inserting after the item relating to section 233 the following:

“Sec. 234. Officer candidates.”.

(c) OFFICER CANDIDATE DEFINED.—Section 212 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3002) is amended—

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

(2) by inserting after paragraph (3) the following:

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

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

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

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

SEC. 10. INVOLUNTARY RETIREMENT OR SEPARATION.

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

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

“(1) IN GENERAL.—If the Secretary determines that the evaluation of the medical condition of an officer requires hospitalization or medical observation that cannot be completed with confidence in a manner consistent with the officer’s well being before

the date on which the officer would otherwise be required to retire or be separated under this section, the Secretary may defer the retirement or separation of the officer.

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

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

SEC. 11. SEPARATION PAY.

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

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

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

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

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

Section 261(a) of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071(a)) is amended—

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

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

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

(4) by inserting after paragraph (3) the following:

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

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

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

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

(5) by inserting after paragraph (10), as redesignated, the following:

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

(6) by inserting after paragraph (17), as redesignated, the following:

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

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

SEC. 13. EDUCATION LOAN REPAYMENT PROGRAM.

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

“SEC. 267. EDUCATION LOAN REPAYMENT PROGRAM.

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

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

“(2) was obtained from a governmental entity, private financial institution, edu-

cational institution, or other authorized entity.

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

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

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

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

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

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

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

“(d) **LOAN REPAYMENTS.**—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) **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) is amended by inserting after the item relating to section 266 the following:

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

SEC. 14. INTEREST PAYMENT PROGRAM.

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

“SEC. 268. INTEREST PAYMENT PROGRAM.

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

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

“(1) is serving on active duty;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) **CONFORMING AMENDMENTS.**—

(1) Section 428(o) of the Higher Education Act of 1965 (20 U.S.C. 1078(o)) is 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”.

(2) Sections 455(1) and 464(j) of the Higher Education Act of 1965 (20 U.S.C. 1087e(1) and 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 13(b), is further amended by inserting after the item relating to section 267, as added by such section 13(b), the following: “Sec. 268. Interest payment program.”.

SEC. 15. STUDENT PRE-COMMISSIONING EDUCATION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Subtitle E of title II of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.), as amended by sections 13 and 14, is further amended by adding at the end the following:

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

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

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

“(2) a postbaccalaureate degree.

“(b) ELIGIBLE PERSONS.—

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

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

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

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

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

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

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

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

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

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

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

“(2) The cost of books.

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

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

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

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

“(f) SUBSISTENCE ALLOWANCE.—

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

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

“(g) INITIAL CLOTHING ALLOWANCE.—

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

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

“(h) TERMINATION OF FINANCIAL ASSISTANCE.—

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

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

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

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

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

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

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

“(B) is—

“(i) not physically qualified for appointment; and

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

the person’s own misconduct or grossly negligent conduct.

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

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

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

(b) 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 14(c), is further amended by inserting after the item relating to section 268, as added by such section 14(c), the following:

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

SEC. 16. LIMITATION ON EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Each fiscal year, beginning with fiscal year 2013, the Secretary of Commerce shall ensure that the total amount expended by the Secretary under section 267 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (as added by section 13(a)), section 268 of such Act (as added by section 14(a)), and section 269 of such Act (as added by section 15(a)) does not exceed the amount by which—

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

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

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

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

(a) IN GENERAL.—Subtitle E of title II of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.), as amended by sections 13 through 15, is further amended by adding at the end the following:

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

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

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

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

“(3) Section 403(1), relating to temporary continuation of housing allowance for dependents of members dying on active duty.

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

“(5) Section 428, relating to allowances for recruiting expenses.

“(6) Section 435, relating to allowances for funeral honors duty.

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

(b) 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 15(b), is further amended by inserting after the item relating to section 269, as added by such section 15(b), the following:

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

SEC. 18. APPLICATION OF CERTAIN PROVISIONS OF COMPETITIVE SERVICE LAW.

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

(1) in paragraph (1), by inserting “and members of the commissioned officer corps of the National Oceanic and Atmospheric Administration (or its predecessor organization the Coast and Geodetic Survey) separated from such uniformed service” after “separated from the armed forces”;

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

and

(3) in paragraph (4), by inserting “and members of the commissioned officer corps of the National Oceanic and Atmospheric Administration (or its predecessor organization the Coast and Geodetic Survey) separated from such uniformed service” after “separated from the armed forces”.

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

Section 1121 of title 10, United States Code, is amended by striking “armed forces” and inserting “uniformed services”.

SEC. 20. APPLICATION OF EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES TO MEMBERS OF COMMISSIONED OFFICER CORPS.

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

SEC. 21. PROTECTED COMMUNICATIONS FOR COMMISSIONED OFFICER CORPS AND PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.

(a) IN GENERAL.—Subsection (a) of section 261 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071(a)), as amended by section 12, is further amended—

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

(2) by inserting after paragraph (7) the following:

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

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

SEC. 22. CRIMINAL PENALTIES FOR WEARING UNIFORM WITHOUT AUTHORITY.

Section 702 of title 18, United States Code, is amended by striking “Service or any” and inserting “Service, the commissioned officer corps of the National Oceanic and Atmospheric Administration, or any”.

SEC. 23. TECHNICAL CORRECTION.

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

SEC. 24. REPORT.

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

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

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

(2) An estimate of the number of annual recruits that would reasonably be required to operate the commissioned officer corps sufficiently through fiscal year 2017.

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

(4) Identification of areas of duplication or unnecessary redundancy in current activities of the commissioned officer corps that could otherwise be streamlined or eliminated to save costs.

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

SEC. 25. EFFECTIVE DATE.

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

ELIMINATING THE “ADULT ENTERTAINMENT” SECTION OF THE CLASSIFIED ADVERTISING WEB SITE BACKPAGE.COM

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 439 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 439) expressing the sense of the Senate that Village Voice Media Holdings, LLC should eliminate the “adult entertainment” section of the classified advertising website Backpage.com.

There being no objection, the Senate proceeded to consider the resolution.

• Mr. KIRK. Mr. President, we often hear and read about stories of young boys and girls in foreign countries forced into sexual slavery. Helpless children as young as 11 and 12 years old are threatened, abused, raped, and sold for sex. But we rarely hear about the child sex trafficking that happens here at home in Chicago, New York, Atlanta, Miami, and most major metro-

politan cities in the United States. Experts estimate that each year as many as 300,000 children are at risk of commercial sexual exploitation in the U.S. An alarming 40 percent of incidents investigated by federally funded task forces on human trafficking between 2008 and 2010 involved the sexual exploitation of a child, according to a Bureau of Justice Statistics report.

The numbers are rising, in part because it has become frighteningly simple to order a child prostitute on the Internet. One merely needs to look at the classified ads on Backpage.com, the leading Web site for prostitution advertising in the United States according to the Advanced Interactive Media, AIM, Group. The website’s “adult entertainment” section generates more than 80 percent of total prostitution advertising revenue on the web. This section includes services such as “escorts” and “body rubs,” a thinly veiled code for prostitution. Just a few clicks on this site easily enables “johns” to purchase children for sex. Law enforcement believes that the existence of Backpage encourages the recruitment of victims for sexual exploitation because it allows traffickers to operate out of sight from police patrols.

Backpage.com is owned and operated by Village Voice Media Holdings, the former parent company of the alternative weekly Village Voice publications. The company, which makes an estimated \$26 million per year from these ads, claims it polices the ads on its site, but the statistics and devastating reports say otherwise. According to the National Association of Attorneys General, 23 States have cumulatively filed more than 50 charges against suspects trafficking minors on Backpage.com.

In August 2011, nine members of the Vice Lords and other south and west side of Chicago gangs were charged with operating a major sex trafficking ring. Some of the girls forced into sexual slavery were as young as 12 years old. Victims suffered immense abuse, including beatings, branding, tattooing, death threats, being locked in car trunk, and forced to sleep outside even in cold Chicago winters. The gang members used Backpage.com to facilitate their operation.

In August 2012, Marques Williams was arrested and charged with a Federal sex trafficking complaint for trafficking a 15-year-old girl in Rochester, NY. Advertising the young girls services on Backpage.com, Williams forced her to take up to 15 customers a day.

In December 2012, Fernando Gonzales was sentenced to 20 years in prison for child sex trafficking. Fernando raped and impregnated a 16-year-old girl, then forced her into prostitution and advertised her services on Backpage.com. When the victim tried to escape, Fernando threatened to kill her and her child and then carved his initial into her arm.

Unfortunately, there are too many stories like these. As news reports of