

all votes after the first be 10 minutes in length.

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

# TO REAUTHORIZE AND AMEND THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to Calendar No. 292, S. 1068.

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

The legislative clerk read as follows:

A bill (S. 1068) 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 (S. 1068) to reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, and for other purpose, 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 2013”.

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

Sec. 1. Short title; table of contents.

Sec. 2. References to National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002.

## TITLE I—GENERAL PROVISIONS

Sec. 101. Strength and distribution in grade.

Sec. 102. Exclusion of officers recalled from retired status and positions of importance and responsibility from number of authorized commissioned officers.

Sec. 103. Obligated service requirement.

Sec. 104. Training and physical fitness.

## TITLE II—APPOINTMENTS AND PROMOTION OF OFFICERS

Sec. 201. Appointments.

Sec. 202. Personnel boards.

Sec. 203. Delegation of authority for appointments and promotions to permanent grades.

Sec. 204. Temporary appointments.

Sec. 205. Officer candidates.

Sec. 206. Procurement of personnel.

## TITLE III—SEPARATION AND RETIREMENT OF OFFICERS

Sec. 301. Involuntary retirement or separation.

Sec. 302. Separation pay.

## TITLE IV—RIGHTS AND BENEFITS

Sec. 401. Education loan repayment program.

Sec. 402. Interest payment program.

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

Sec. 404. Limitation on educational assistance.

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

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

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

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

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

Sec. 410. Protected communications for commissioned officer corps and prohibition of retaliatory personnel actions.

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

## TITLE V—OTHER MATTERS

Sec. 501. Technical correction.

Sec. 502. Report.

Sec. 503. Effective date.

## SEC. 2. REFERENCES TO NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS ACT OF 2002.

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

## TITLE I—GENERAL PROVISIONS

### SEC. 101. STRENGTH AND DISTRIBUTION IN GRADE.

Section 214 (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. 102. EXCLUSION OF OFFICERS RECALLED FROM RETIRED STATUS AND POSITIONS OF IMPORTANCE AND RESPONSIBILITY FROM NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

Section 215 (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. 103. OBLIGATED SERVICE REQUIREMENT.

(a) **IN GENERAL.**—Subtitle A (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. 104. TRAINING AND PHYSICAL FITNESS.**

(a) *IN GENERAL.*—Subtitle A (33 U.S.C. 3001 et seq.), as amended by section 103(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 by establishing standards of physical fitness for officers that are substantially equivalent to those prescribed for officers in the Coast Guard.”.

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

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

## **TITLE II—APPOINTMENTS AND PROMOTION OF OFFICERS**

**SEC. 201. APPOINTMENTS.**

(a) *ORIGINAL APPOINTMENTS.*—

(1) *IN GENERAL.*—Section 221 (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 re-appointments.”.

**SEC. 202. PERSONNEL BOARDS.**

Section 222 (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. 203. DELEGATION OF AUTHORITY FOR APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.**

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

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

“(a) *IN GENERAL.*—Appointments”; and

(2) by adding at the end the following:

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

**SEC. 204. TEMPORARY APPOINTMENTS.**

(a) *IN GENERAL.*—Section 229 (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.

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

(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 striking the item relating to section 229 and inserting the following:

“Sec. 229. Temporary appointments.”.

**SEC. 205. OFFICER CANDIDATES.**

(a) *IN GENERAL.*—Subtitle B (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(b) (33 U.S.C. 3002(b)) 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. 206. PROCUREMENT OF PERSONNEL.**

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

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

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

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

“235. Procurement of personnel.”.

### **TITLE III—SEPARATION AND RETIREMENT OF OFFICERS**

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

Section 241 (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. 302. SEPARATION PAY.**

Section 242 (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.”.

### **TITLE IV—RIGHTS AND BENEFITS**

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

(a) **IN GENERAL.**—Subtitle E (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 com-

missioned 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. 402. INTEREST PAYMENT PROGRAM.**

(a) **IN GENERAL.**—Subtitle E (33 U.S.C. 3071 et seq.), as amended by section 401(a), 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 401(b), is further amended by inserting after the item relating to section 267 the following:

"Sec. 268. Interest payment program."

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

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

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

"Sec. 269. Student pre-commissioning education assistance program."

**SEC. 404. 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 401(a)), section 268 of such Act (as added by section 402(a)), and section 269 of such Act (as added by section 403(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 205(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 the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3002), as added by section 205(c).

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

Section 261(a) (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. 406. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 37, UNITED STATES CODE.**

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

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

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

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

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

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

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

the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

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

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

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

(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 261 the following:

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

**SEC. 407. 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. 408. 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. 409. 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. 410. PROTECTED COMMUNICATIONS FOR COMMISSIONED OFFICER CORPS AND PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.**

(a) *IN GENERAL.*—Subsection (a) of section 261 (33 U.S.C. 3071), as amended by section 405, 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. 411. 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”.

**TITLE V—OTHER MATTERS****SEC. 501. 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. 502. 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. 503. EFFECTIVE DATE.**

Notwithstanding any other provision of this Act, sections 101 through 411 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 502(a).

Mr. REID. I further ask 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; and the motions to reconsider be considered made and laid upon the table, with no intervening action or debate.

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

The amendment (No. 2740) was agreed to, as follows:

(Purpose: To treat certain officers in the commissioned officer corps of the National Oceanic and Atmospheric Administration as employees of the Administration for purposes of vacant positions of employment open only to current employees of the Administration)

At the end of title IV, add the following:

**SEC. 412. TREATMENT OF COMMISSION IN COMMISSIONED OFFICER CORPS AS EMPLOYMENT IN NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION FOR PURPOSES OF CERTAIN HIRING DECISIONS.**

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

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

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

at least 3 years to be serving in a career or career-conditional position in the competitive service within the Administration for purposes of such limitation.

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

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

(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 269, as added by this title, the following new item:

“Sec. 269A. Treatment of commission in commissioned officer corps as employment in Administration for purposes of certain hiring decisions.”.

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

The bill (S. 1068), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1068

*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 2013”.

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

Sec. 1. Short title; table of contents.  
Sec. 2. References to National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002.

#### TITLE I—GENERAL PROVISIONS

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

#### TITLE II—APPOINTMENTS AND PROMOTION OF OFFICERS

Sec. 201. Appointments.  
Sec. 202. Personnel boards.  
Sec. 203. Delegation of authority for appointments and promotions to permanent grades.

Sec. 204. Temporary appointments.  
Sec. 205. Officer candidates.  
Sec. 206. Procurement of personnel.

#### TITLE III—SEPARATION AND RETIREMENT OF OFFICERS

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

#### TITLE IV—RIGHTS AND BENEFITS

Sec. 401. Education loan repayment program.  
Sec. 402. Interest payment program.  
Sec. 403. Student pre-commissioning education assistance program.  
Sec. 404. Limitation on educational assistance.  
Sec. 405. Applicability of certain provisions of title 10, United States Code.

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

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

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

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

Sec. 410. Protected communications for commissioned officer corps and prohibition of retaliatory personnel actions.

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

Sec. 412. Treatment of commission in commissioned officer corps as employment in National Oceanic and Atmospheric Administration for purposes of certain hiring decisions.

#### TITLE V—OTHER MATTERS

Sec. 501. Technical correction.

Sec. 502. Report.

Sec. 503. Effective date.

#### SEC. 2. REFERENCES TO NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS ACT OF 2002.

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

#### TITLE I—GENERAL PROVISIONS

##### SEC. 101. STRENGTH AND DISTRIBUTION IN GRADE.

Section 214 (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. 102. EXCLUSION OF OFFICERS RECALLED FROM RETIRED STATUS AND POSITIONS OF IMPORTANCE AND RESPONSIBILITY FROM NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

Section 215 (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. 103. OBLIGATED SERVICE REQUIREMENT.

(a) IN GENERAL.—Subtitle A (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. 104. TRAINING AND PHYSICAL FITNESS.

(a) IN GENERAL.—Subtitle A (33 U.S.C. 3001 et seq.), as amended by section 103(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 by establishing standards of physical fitness for officers that are substantially equivalent to those prescribed for officers in the Coast Guard.”.

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

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

### TITLE II—APPOINTMENTS AND PROMOTION OF OFFICERS

#### SEC. 201. APPOINTMENTS.

(a) ORIGINAL APPOINTMENTS.—

(1) IN GENERAL.—Section 221 (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 re-appointments.”.

#### SEC. 202. PERSONNEL BOARDS.

Section 222 (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. 203. DELEGATION OF AUTHORITY FOR APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.

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

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

“(a) IN GENERAL.—Appointments”; and

(2) by adding at the end the following:

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

#### SEC. 204. TEMPORARY APPOINTMENTS.

(a) IN GENERAL.—Section 229 (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.

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

(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 striking the item relating to section 229 and inserting the following:

“Sec. 229. Temporary appointments.”.

#### SEC. 205. OFFICER CANDIDATES.

(a) IN GENERAL.—Subtitle B (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(b) (33 U.S.C. 3002(b)) 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. 206. PROCUREMENT OF PERSONNEL.

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

#### “SEC. 235. PROCUREMENT OF PERSONNEL.

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

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

“235. Procurement of personnel.”.

### TITLE III—SEPARATION AND RETIREMENT OF OFFICERS

#### SEC. 301. INVOLUNTARY RETIREMENT OR SEPARATION.

Section 241 (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. 302. SEPARATION PAY.

Section 242 (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.”.

### TITLE IV—RIGHTS AND BENEFITS

#### SEC. 401. EDUCATION LOAN REPAYMENT PROGRAM.

(a) IN GENERAL.—Subtitle E (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. 402. INTEREST PAYMENT PROGRAM.

(a) IN GENERAL.—Subtitle E (33 U.S.C. 3071 et seq.), as amended by section 401(a), 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(1), and 464(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(o), 1087e(1), 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 401(b), is further amended by inserting after the item relating to section 267 the following:

“Sec. 268. Interest payment program.”

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

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

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

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

#### SEC. 404. 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 401(a)), section 268 of such Act (as added by section 402(a)), and section 269 of such Act (as added by section 403(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 205(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 the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of

2002 (33 U.S.C. 3002), as added by section 205(c).

#### SEC. 405. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 10, UNITED STATES CODE.

Section 261(a) (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. 406. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 37, UNITED STATES CODE.

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

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

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

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

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

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

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

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

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

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

(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 261 the following:

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

#### SEC. 407. 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. 408. 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. 409. 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. 410. PROTECTED COMMUNICATIONS FOR COMMISSIONED OFFICER CORPS AND PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.

(a) IN GENERAL.—Subsection (a) of section 261 (33 U.S.C. 3071), as amended by section 405, 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. 411. 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. 412. TREATMENT OF COMMISSION IN COMMISSIONED OFFICER CORPS AS EMPLOYMENT IN NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION FOR PURPOSES OF CERTAIN HIRING DECISIONS.

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

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

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

officer in the commissioned officer corps for at least 3 years to be serving in a career or career-conditional position in the competitive service within the Administration for purposes of such limitation.

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

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

(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 269, as added by this title, the following new item:

“Sec. 269A. Treatment of commission in commissioned officer corps as employment in Administration for purposes of certain hiring decisions.”.

#### TITLE V—OTHER MATTERS

##### SEC. 501. 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. 502. 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. 503. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, sections 101 through 411 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 502(a).

#### APPOINTMENTS

THE PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 9355(a), appoints the following Senator to the Board of Visitors of the U.S. Air Force Academy: The Honorable JERRY MORAN of Kansas, vice The Honorable JOHN HOEVEN of North Dakota.

The Chair, on behalf of the Vice President, pursuant to Section 1295b(h) of title 46 App., United States Code, and upon the recommendation of the Chairman of the Committee on Commerce, Science and Transportation, appoints the following Senators to the Board of Visitors of the U.S. Merchant Marine Academy: The Honorable JOHN BOOZMAN of Arkansas and The Honorable ROGER WICKER of Mississippi.

#### ORDERS FOR WEDNESDAY, FEBRUARY 12, 2014

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, February 12, 2014; that following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of

morning business until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; and that following morning business, the Senate proceed to executive session under the previous order.

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

#### PROGRAM

Mr. REID. So there will be up to four rollcall votes starting at 11:30 a.m. tomorrow. We expect to receive the debt limit legislation and the military retirement pay bill from the House tomorrow and we hope to consider both items during tomorrow's session.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:45 p.m., adjourned until Wednesday, February 12, 2014, at 9:30 a.m.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate February 11, 2014:

##### DEPARTMENT OF STATE

RICHARD STENGEL, OF NEW YORK, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.

SARAH SEWALL, OF MASSACHUSETTS, TO BE AN UNDER SECRETARY OF STATE (CIVILIAN SECURITY, DEMOCRACY, AND HUMAN RIGHTS).

CHARLES HAMMERMAN RIVKIN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE (ECONOMIC AND BUSINESS AFFAIRS).

##### DEPARTMENT OF VETERANS AFFAIRS

SLOAN D. GIBSON, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY SECRETARY OF VETERANS AFFAIRS.