SEC. ___. ADDITIONAL AUTHORITY TO AWARD CONSTRUCTIVE SERVICE CREDIT FOR EXPERIENCE, TRAINING, OR ADVANCED EDUCATION UPON ORIGINAL APPOINTMENT AS A COMMISSIONED OFFICER.

(a) ACTIVE-DUTY LIST APPOINTMENTS.—Section 533(g) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "with cyberspace-related experience or advanced education";

(ii) by inserting "with advanced education, or special experience or training, related to a designated field" after "of such Secretary"; and

(iii) by striking "critically";

(B) in subparagraph (A)—

(i) by striking "in a particular cyberspace-related field" and inserting "in such designated field"; and

(ii) by striking "operational"; and

(C) in subparagraph (B)—

(i) by striking "in a cyberspace-related field" and inserting "in such designated field"; and

(ii) by striking "operational";

(2) by striking paragraph (2) and inserting the following:

"(2) The amount of constructive service credited an officer under this subsection may be up to, but may not exceed, the amount required in order for the officer to be eligible for an original appointment in the grade of colonel in the Army, Air Force, or Marine Corps or captain in the Navy."; and

(3) by striking paragraph (4) and inserting the following new paragraph:

"(4) In this subsection, the term 'designated field' means any of the following:

"(A) Cyberspace.

"(B) Any scientific or technical field designated by the Secretary of Defense.

"(C) Any other field designated by the Secretary of Defense as being a high-skill, difficult-to-fill field.".

(b) RESERVE ACTIVE-STATUS LIST APPOINTMENTS.—Section 12207 of such title is amended—

(1) in subsection (a)(2), by inserting "or (g)" after "subsection (b)";

(2) in subsection (e), by striking "subsection (b) or (d)" and inserting "subsection (b), (d), or (g)"; and

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

"(g)(1) Under regulations prescribed by the Secretary of Defense, if the Secretary of a military department determines that the number of commissioned officers serving on the reserve active-status list in an armed force under the jurisdiction of such Secretary with advanced education, or special experience or training, related to a designated field is below the number needed, such Secretary may credit any person receiving an original appointment with a period of constructive service for the following:

"(A) Special experience or training in such designated field if such experience or training is directly related to the needs of the armed force concerned.

"(B) Any period of advanced education in such designated field beyond the baccalaureate degree level if such advanced education is directly related to the needs of the armed force concerned.

"(2) The amount of constructive service credited an officer under this subsection may be up to, but may not exceed, the amount required in order for the officer to be eligible for an original appointment in the grade of colonel in the Army, Air Force, or Marine Corps or captain in the Navy.

"(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

"(4) In this subsection, the term 'designated field' means any of the following:

"(A) Cyberspace.

"(B) Any scientific or technical field designated by the Secretary of Defense.

"(C) Any other field designated by the Secretary of Defense as being a high-skill, difficult-to-fill field.".

[Please note: The "Changes to Existing Law" section at the end sets out in red-line format how the legislative text below would change existing law.]

Section-by-Section Analysis

This proposal would amend sections 533 and 12207 of title 10, U.S. Code, to permit the Services more flexibility in determining the grade and the rank within grade of an individual receiving an original appointment as a regular or reserve commissioned officer.

Specifically, this proposal would amend sections 533 and 12207 to permit a Secretary of a military department to appoint an individual with advanced education, or special experience or

training, in a designated field to a grade not exceeding colonel in the Army, Air Force, or Marine Corps, or captain in the Navy.

Currently, section 533(g) of title 10, U.S. Code, applies only to commissioned officers with cyberspace-related experience or advanced education, and the authority expires on December 31, 2018. This proposal would extend the authority permanently and allow expanded use to certain fields, in addition to cyberspace-related career fields, to include scientific or technical fields, and other fields designated by the Secretary of Defense as a high-skill, difficult-to-fill field. This authority would permit the Secretary of Defense to authorize a Secretary of a military department to appoint an individual with advanced education, or special experience or training, in an emerging field, not resident in the Service, to an appropriate grade commensurate with the individual's level of education and expertise in that designated field.

Additionally, the proposal would amend section 12207 of title 10, U.S. Code, by adding subsection (g) as an equivalent change to provide parity within the reserve component commissioned grades.

Flexibility to award constructive service credit up to the grade of colonel on the Army, Air Force, or Marine Corps, or captain in the Navy, will ensure the Department of Defense (DoD) remains competitive in a modern workforce by allowing the military services to attract, recruit, and retain highly skilled individuals.

Budget Implications: Any use of this authority would be conducted within the military departments' existing budgetary authorities and would not increase Federal outlays. In fact, since officers accessing with constructive credit will be paid at the "under 2" pay level for their entry grade and the Services are constrained by the grade tables pursuant to section 115 of title 10, U.S. Code, this proposal will actually result in cost savings.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2019	**FY 2020**	**FY 2021**	**FY 2022**	**FY 2023**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Army	($0.26)	($0.27)	($0.28)	($0.29)	($0.29)	Military Personnel, Army	01	5
Navy	($0.13)	($0.14)	($0.14)	($0.14)	($0.15)	Military Personnel, Navy	01	5
Marine Corps	$0.00	$0.00	$0.00	$0.00	$0.00	Military Personnel, Marine Corps	01	5
Air Force	($0.39)	($0.41)	($0.42)	($0.43)	($0.44)	Military Personnel, Air Force	01	5
Total	($0.78)	($0.82)	($0.84)	($0.86)	($0.88)	--	--	--

NUMBER OF PERSONNEL AFFECTED

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Army	10	10	10	10	10
Navy	25	25	25	25	25
Marine Corps	0	0	0	0	0
Air Force	50	50	50	50	50

Changes to Existing Law: This proposal would make the following changes to existing law:

TITLE 10, UNITED STATES CODE

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§ 533. Service credit upon original appointment as a commissioned officer

(a)(1) For the purpose of determining the grade and rank within grade of a person receiving an original appointment in a commissioned grade (other than a warrant officer grade) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, such person shall be credited at the time of such appointment with any active commissioned service (other than service as a commissioned warrant officer) that he performed in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service before such appointment.

(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, to authorize the Secretary of the military department concerned to limit the amount of prior active commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b) or (g).

(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned shall credit a person who is receiving an original appointment in a commissioned grade (other than a commissioned warrant officer grade) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps and who has advanced education or training or special experience with constructive service for such education, training, or experience as follows:

(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed, designated, or assigned in officer categories requiring such advanced education or an advanced degree as a prerequisite for such appointment, designation, or assignment. In determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of advanced education required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.

(B)(i) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for appointment, designation, or assignment, if such advanced education will be directly used by the armed force concerned.

(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.

(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the armed forces.

(D) Additional credit, in unusual cases, based on special experience in a particular field.

(E) Additional credit for experience as a physician or dentist, if appointed as a medical or dental officer in the Army or Navy or, in the case of the Air Force, with a view to designation as a medical or dental officer.

(2) Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of major in the Army, Air Force, or Marine Corps or lieutenant commander in the Navy.

(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

(c) Constructive service credited an officer under subsection (b) or (g) shall be used only for determining the officer's—

(1) initial grade as a regular officer;

(2) rank in grade; and

(3) service in grade for promotion eligibility.

(d)(1) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving as a commissioned officer (other than a warrant officer) on active duty or in an active status. However, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.

(2) A graduate of the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy is not entitled to service credit under this section for service performed, or education, training, or experience obtained, before graduation from such Academy.

(e) If the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Army, Navy, Air Force, or Marine Corps in grades below major or lieutenant commander is critically below the number needed by such armed force in such grades, he may authorize the Secretary of the military department concerned to credit any person receiving an original appointment in the Judge Advocate General's Corps of the Army or Navy, or any person receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in

addition to any period of service credited such person under subsection (b)(1)) as will result in the grade of such person being that of captain or, in the case of an officer of the Navy, lieutenant and the date of rank of such person being junior to that of all other officers of the same grade serving on active duty.

(f) A reserve officer (other than a warrant officer) who receives an original appointment as an officer (other than as a warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps shall—

(1) in the case of an officer on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same date of rank as the grade and date of rank held by the officer on the active-duty list immediately before the appointment; and

(2) in the case of an officer not on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same date of rank as the grade and date of rank which the officer would have held had the officer been serving on the active-duty list on the date of the appointment as a regular officer.

(g)(1) Under regulations prescribed by the Secretary of Defense, if the Secretary of a military department determines that the number of commissioned officers ~~with cyberspace-related experience or advanced education~~ serving on active duty in an armed force under the jurisdiction of such Secretary <u>with advanced education, or special experience or training, related to a designated field</u> is ~~critically~~ below the number needed, such Secretary may credit any person receiving an original appointment with a period of constructive service for the following:

(A) Special experience or training ~~in a particular cyberspace-related field~~ <u>in such designated field</u> if such experience or training is directly related to the ~~operational~~ needs of the armed force concerned.

(B) Any period of advanced education ~~in a cyberspace-related field~~ <u>in such designated field</u> beyond the baccalaureate degree level if such advanced education is directly related to the ~~operational~~ needs of the armed force concerned.

~~(2) Constructive service credited an officer under this subsection shall not exceed one year for each year of special experience, training, or advanced education, and not more than three years total constructive service may be credited.~~

<u>(2) The amount of constructive service credited an officer under this subsection may be up to, but may not exceed, the amount required in order for the officer to be eligible for an original appointment in the grade of colonel in the Army, Air Force, or Marine Corps or captain in the Navy.</u>

(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

~~(4) The authority to award constructive service credit under this subsection expires on December 31, 2018.~~

<u>(4) In this subsection, the term "designated field" means any of the following:</u>

<u>(A) Cyberspace.</u>

<u>(B) Any scientific or technical field designated by the Secretary of Defense.</u>

<u>(C) Any other field designated by the Secretary of Defense as being a high-skill, difficult-to-fill field.</u>

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§ 12207. Commissioned officers: service credit upon original appointment

(a)(1) For the purpose of determining the grade and the rank within grade of a person receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) in the Army, Navy, Air Force, or Marine Corps, the person shall be credited at the time of the appointment with any commissioned service (other than service as a commissioned warrant officer) performed before such appointment as a regular officer, or as a reserve officer in an active status, in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service.

(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, to authorize the Secretary of the military department concerned to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b) **or (g)**.

(b)(1) Under regulations prescribed by the Secretary of Defense, a person who is receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps, or a designation in, or an assignment to, an officer category in which advanced education or training is required and who has advanced education or training, shall be credited with constructive service for such education, training, or experience, as follows:

(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed or designated in, or assigned to, officer categories requiring such advanced education or an advanced degree as a prerequisite for such appointment, designation, or assignment. In determining the number of years of constructive service to be credited under this subparagraph to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of advanced education required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.

(B)(i) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for such appointment, designation, or assignment, if such advanced education will be directly used by the armed force concerned.

(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.

(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal health professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the armed force concerned.

(D) Additional credit, in unusual cases, based on special experience in a particular field.

(E) Additional credit for experience as a physician or dentist, if appointed, assigned, or designated as a medical or dental officer.

(2)(A) If the Secretary of Defense determines that the number of officers in a health profession described in subparagraph (B) who are serving in an active status in a reserve component of the Army, Navy, or Air Force in grades below major or lieutenant commander is critically below the number needed in such health profession by such reserve component in such grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment as an officer for service in such health profession with a period of constructive credit in such amount (in addition to any amount credited such person under paragraph (1)) as will result in the grade of such person being that of captain or, in the case of the Navy Reserve, lieutenant.

(B) The types of health professions referred to in subparagraph (A) include the following:

(i) Any health profession performed by officers in the Medical Corps of the Army or the Navy or by officers of the Air Force designated as a medical officer.

(ii) Any health profession performed by officers in the Dental Corps of the Army or the Navy or by officers of the Air Force designated as a dental officer.

(iii) Any health profession performed by officers in the Medical Service Corps of the Army or the Navy or by officers of the Air Force designated as a medical service officer or biomedical sciences officer.

(iv) Any health profession performed by officers in the Army Medical Specialist Corps.

(v) Any health profession performed by officers of the Nurse Corps of the Army or the Navy or by officers of the Air Force designated as a nurse.

(vi) Any health profession performed by officers in the Veterinary Corps of the Army or by officers designated as a veterinary officer.

(3) Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of Defense in the case of officers covered by paragraph (2), the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment as a reserve officer of the Army, Air Force, or Marine Corps in the grade of major or as a reserve officer of the Navy in the grade of lieutenant commander.

(4) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer or assignment to or designation in an officer category in which advanced education or training or special experience is required.

(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving as a commissioned officer (other than a warrant officer) on active duty or in an active status. However, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.

(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on the active-duty list of the Army, Navy, Air Force, or Marine Corps in grades below lieutenant commander or major is critically below the number needed by that armed force in those grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment with a view to assignment to the Judge Advocate General's Corps of the Army or appointment to the Judge Advocate General's Corps of the Navy, or who is receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Navy, lieutenant, and the date of rank of such person being junior to that of all other officers of the same grade serving on the active-duty list.

(e) Constructive service credited an officer under ~~subsection (b) or (d)~~**subsection (b), (d), or (g)** shall be used only for determining the officer's—

(1) initial grade as a reserve officer;

(2) rank in grade; and

(3) service in grade for promotion eligibility.

(f) The grade and position on the reserve active-status list of a person receiving an appointment as a reserve officer who at the time of appointment is credited with service under this section shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.

(g)(1) Under regulations prescribed by the Secretary of Defense, if the Secretary of a military department determines that the number of commissioned officers serving on the reserve active-status list in an armed force under the jurisdiction of such Secretary with advanced education, or special experience or training, related to a designated field is below the number needed, such Secretary may credit any person receiving an original appointment with a period of constructive service for the following:

(A) Special experience or training in such designated field if such experience or training is directly related to the needs of the armed force concerned.

(B) Any period of advanced education in such designated field beyond the baccalaureate degree level if such advanced education is directly related to the needs of the armed force concerned.

(2 The amount of constructive service credited an officer under this subsection may be up to, but may not exceed, the amount required in order for the officer to be eligible for an original appointment in the grade of colonel in the Army, Air Force, or Marine Corps or captain in the Navy.

(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

(4) In this subsection, the term “designated field” means any of the following:

(A) Cyberspace.

(B) Any scientific or technical field designated by the Secretary of Defense.

(C) Any other field designated by the Secretary of Defense as being a high-skill, difficult-to-fill field.

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