SEC. ___. EXPANSION OF AVAILABILITY OF ENHANCED CONSTRUCTIVE SERVICE CREDIT IN A PARTICULAR OFFICER CAREER FIELD UPON ORIGINAL APPOINTMENT AS A COMMISSIONED OFFICER.

(a) REGULAR OFFICERS.—Section 533(b)(1)(D) of title 10, United States Code, is amended—

(1) by inserting "advanced education or" before "special training or experience"; and

(2) by striking "if such training" and inserting "if such education, training,".

(b) RESERVE OFFICERS.—Section 12207(b)(1) of title 10, United States Code, is amended—

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

(A) by striking ", or a designation in, or an assignment to, an officer category in which advanced education or training is required"; and

(B) by inserting "or special experience" after "who has advanced education or training"; and

(2) in subparagraph (D)—

(A) by inserting "advanced education or" before "special training or experience"; and

(B) by striking "if such training" and inserting "if such education, training,".

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

Section-by-Section Analysis

This proposal would expand the authority provided under section 502 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232), as codified in sections 533 and 12207 of title 10, United States Code, to award enhanced constructive service credit upon original appointment in particular officer career fields as designated by the Secretary concerned. Expansion of this authority would afford the Secretaries of the military departments greater flexibility to award credit for not only "special training or experience" but also "advanced education" in designated career fields such as cyberspace.

The FY19 NDAA repealed the prior temporary authority for service credit for critically necessary cyberspace-related experience previously codified at sections 533(g) and 12207(b)(1)(D) of title 10, U.S.C.. This temporary authority permitted the award of constructive credit for advanced education, special experience, or training. In lieu thereof, the FY19 NDAA enacted authority to permit additional credit for "special training or experience in a particular officer career field as designated by the Secretary concerned, if such training or experience is directly related to the operational needs of the armed force concerned." (10 U.S.C. 533(b)(1)(D) and 12207(b)(1)(D)). No authority, however, was provided to award additional credit for "advanced education." Moreover, the restructuring of 10 U.S.C. 12207 resulted in the new authority provided in section 12207(b)(1)(D) to be constrained by the wording of section 12207(b)(1) that only permits the award of credit when an officer is appointed, designated, or assigned to an officer category in which "advanced education or training is required". Currently neither advanced education, special experience, nor training is "required" for an original appointment into an Air Force cyberspace career field. The net effect of the FY19 NDAA changes is that the authority to award enhanced constructive service credit for cyberspace career field has been diminished under 10 U.S.C. 533 and effectively eliminated under 10 U.S.C. 12207.

Adding back authority to award enhanced constructive service credit for "advanced education" allows the Air Force to quickly increase the number of cyberspace officers. Additionally, because cyber is a total force mission, removing the limiting language of 10 U.S.C. 12207(b)(1) and patterning the language of the subsection as is done in 10 U.S.C. 533(b)(1) would permit the reserve component to effectively use 10 U.S.C. 12207(b)(1)(D)) to meet its cyberspace officer requirements without removing the "required" language in other provisions (i.e. section 12207(b)(1)(A) and (C)).

Utilizing these expanded authorities will allow the Air Force to fill critical officer vacancies with highly qualified, educated, and experienced personnel. Staffing of core cyberspace officers is 78% for the Air Force Reserve, 65% for the Regular Air Force Field Grade Officers, and 47.2% for the Air National Guard Field Grade Officers. These numbers are not sufficient to support current and future cyber requirements such as USCYBERCOM's Cyber Mission Force Teams, Air Force Mission Defense Teams, and the growing need for persistently linked systems with increasingly difficult cybersecurity challenges.

While our accessions have been boosted to try to help remedy the shortfall, it takes 10 to 12 years to train and provide experience to officers to fill key/critical joint and combatant commander positions. The application of enhanced constructive credit for "advanced education" in addition to "special training or experience" will allow the Air Force to directly appoint and

employ highly trained Cyber professionals, immediately increasing the force health of the Air Force 17X officer career field through increased annual accessions with higher education and experience, and reduced number of vacant cyber officer billets.

If enacted, the Army and the Navy would be able to use this authority for skill sets yet to be determined by the respective Secretaries.

Budget Implications: The resources impacted are reflected in the table below and are included within the Fiscal Year (FY) 2021 President's Budget request.

Estimated impact on Air Force: $23,285 per year. The accession target for FY17 was 262. That's close to the FY19 target of 261. If 4 Officers were gained with cyber-related IT degrees then the percent of the total is 1.5%. Since 260 seems to be the approximate average then applying 1.5% = an expected 4 new cyber accession with the cyber AAD.

The Army and the Navy would also have minor costs similar to the Air Force, if the Service Secretaries choose to use this appointment authority.

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2021**	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
Constructive Credit	.023	.023	.023	.023	.023	Military Personnel, Air Force	BA01	N/A	N/A
Total	.023	.023	.023	.023	.023	--	--	--	--

Changes to Existing Law: This proposal would make the following changes to sections 533 and 12207 of title 10, United States Code:

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

****

(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:

****

(D) Additional credit for <u>advanced education or</u> special training or experience in a particular officer career field as designated by the Secretary concerned, if such

education, training, or experience is directly related to the operational needs of the armed force concerned.

*****

§ 12207. Commissioned officers: service credit upon original appointment

*****

(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 or special experience, shall be credited with constructive service for such education, training, or experience, as follows:

*****

(D) Additional credit for advanced education or special training or experience in a particular officer career field as designated by the Secretary concerned, if such education, training, or experience is directly related to the operational needs of the armed force concerned.