SEC. 503. REDUCTION IN REQUIRED NUMBER OF MEMBERS OF DISCHARGE REVIEW BOARDS.

Section 1553(a) of title 10, United States Code, is amended by striking “five” and inserting “not less than three”.

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

Section-by-Section Analysis

Section 1553 of title 10, United States Code (Review of discharge or dismissal), requires boards of review to have five members. This proposal would authorize the Secretaries of the military departments to constitute boards of review with a minimum of three members. Having panels comprised of three members, rather than five, would allow the Navy Discharge Review Board (DRB) to process cases in a more timely manner; current processing times exceed 12 months. The use of a three-member panel will not detract from the quality of review or due process provided applicants as evidenced by the historical use of three-member panels in administrative separation proceedings or special courts-martial. For example when three-member panels are used, it is preferred that the president would remain an O-5 or above and at least two of the three panel members would be from the same service. Military members, however, are not required to comprise the totality of the panel; participation by civilians is also authorized. Additionally, the Board for Correction of Naval Records (BCNR), the final administrative review authority within the Department of Navy (DON), is authorized, by instruction, to use no less than three members in the adjudication of cases. A minimum statutory membership requirement is not mandated for the BCNR under 10 U.S.C. 1552. The proposal, as worded, would, however, allow service discretion in the composition of DRB panels. It would also allow DON to return to five-member panels.

The Naval Discharge Review Board (NDRB) currently has a backlog of over 2,000 applications from former service members to review the propriety and equity of their discharges and receives approximately 170 new cases monthly. Authorized NDRB billets are currently filled at 100 percent, and the adjudication time from the receipt of an application to the mailing of the NDRBs decision is 13-15 months. With the current monthly output slightly exceeding new applications, the NDRB projects reaching its goal of a 6-month adjudication time within 18 months. By reducing review panels from five to three members, a production analysis estimates that output would rise from the current 200 cases per month to 350 cases per month, and the 6-month adjudication goal could be reached, and sustained thereafter, within 12 months. With the current high volume of incoming cases expected to return to normal historical levels, it is anticipated that manning levels within the NDRB can be reduced and manpower assets transferred to other personnel boards as required to ensure timely processing of all cases by the several adjudicative boards under the authority of the Council of Review Boards.

Budgetary Implications: There are no costs or savings associated with this proposal since the change in board membership requirements will not result in a change in the labor force. The personnel who would've been on the larger boards will now become available for other tasks, such as reducing the case-backlog.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2016	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
NAVY	0.0	0.0	0.0	0.0	0.0	N/A			
Total	0.0	0.0	0.0	0.0	0.0	--	--	--	--

Changes to Existing Law: This proposal would make the following change to section 1553 of title 10, United States Code:

§ 1553. Review of discharge or dismissal

(a) The Secretary concerned shall, after consulting the Secretary of Veterans Affairs, establish a board of review, consisting of ~~**five**~~ **not less than three** members, to review the discharge or dismissal (other than a discharge or dismissal by sentence of a general court-martial) of any former member of an armed force under the jurisdiction of his department upon its own motion or upon the request of the former member or, if he is dead, his surviving spouse, next of kin, or legal representative. A motion or request for review must be made within 15 years after the date of the discharge or dismissal. With respect to a discharge or dismissal adjudged by a court-martial case tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under this subsection may extend only to a change in the discharge or dismissal or issuance of a new discharge for purposes of clemency.

(b) A board established under this section may, subject to review by the Secretary concerned, change a discharge or dismissal, or issue a new discharge, to reflect its findings.

(c) A review by a board established under this section shall be based on the records of the armed forces concerned and such other evidence as may be presented to the board. A witness may present evidence to the board in person or by affidavit. A person who requests a review under this section may appear before the board in person or by counsel or an accredited representative of an organization recognized by the Secretary of Veterans Affairs under chapter 59 of title 38.

(d)(1) In the case of a former member of the armed forces who, while serving on active duty as a member of the armed forces, was deployed in support of a contingency operation and who, at any time after such deployment, was diagnosed by a physician, clinical psychologist, or psychiatrist as experiencing post-traumatic stress disorder or traumatic brain injury as a consequence of that deployment, a board established under this section to review the former member's discharge or dismissal shall include a member who is a physician, clinical psychologist, or psychiatrist.

(2) In the case of a former member described in paragraph (1) or a former member whose application for relief is based in whole or in part on matters relating to post-traumatic stress disorder or traumatic brain injury as supporting rationale or as justification for priority consideration, the Secretary concerned shall expedite a final decision and shall accord such cases sufficient priority to achieve an expedited resolution. In determining the priority of cases, the Secretary concerned shall weigh the medical and humanitarian circumstances of all cases and accord higher priority to cases not involving post-traumatic stress disorder or traumatic brain injury only when the individual cases are considered more compelling.