SEC. 516. CLARIFICATION OF PURPOSE OF RESERVE COMPONENT SPECIAL SELECTION BOARDS AS LIMITED TO CORRECTION OF ERROR AT A MANDATORY PROMOTION BOARD.

Section 14502(b) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "a selection board" and inserting "a mandatory promotion board convened under section 14101(a) of this title"; and

(B) in subparagraphs (A) and (B), by striking "selection board" and inserting "mandatory promotion board"; and

(2) in the first sentence of paragraph (3) , by striking "selection board" and inserting "mandatory promotion board".

Section-by-Section Analysis

This proposal would better align the special selection board statute applicable to reserve component officers with the special selection board statute applicable to active-duty officers.

Section 14502(a)(1) of title 10, United States Code, makes clear that the Secretary concerned shall convene a special selection board if, inter alia, the Secretary concerned determines that an officer or former officer was not considered for selection for promotion from in or above the promotion zone by a mandatory promotion board convened under section 14101(a) of title 10, United States Code, because of administrative error. Section 14502(b)(1) makes clear that the Secretary concerned may, under regulations prescribed by the Secretary of Defense, convene a special selection board under circumstances for an officer or former officer who was eligible for promotion and was considered for selection for promotion from in or above the promotion zone under chapter 1407 of title 10, United States Code, by "a selection board" but was not selected. However, use of the term, "a selection board," in section 14502(b)(1) creates an ambiguity as to whether or not an officer or former officer could request a special selection board based on having not been selected by a previous special selection board vice a mandatory promotion board convened under section 14101(a) of title 10, United States Code. This ambiguity does not exist for active-duty special selection boards because sections 628(a)(1) and 628(b)(1) of title 10, United States Code, consistently use the term, "promotion board" and this term is specifically defined in section 628(k) as "a selection board convened by the Secretary of a military department under section 573(a) or 611(a)" of title 10, United States Code.

This proposal would remove an important ambiguity in the statute concerning reserve special selection boards. While special selection boards provide a critical mechanism for addressing errors in promotion boards, their statutory authority should not be used to justify requests for additional special selection boards based upon non-selection by a previous special selection board. This proposal would also more closely align the statutory language regarding active-duty and reserve special selection boards.

Budgetary Implications: This proposal has no budgetary implications. This clarification to the law would simply remove a statutory ambiguity.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2016	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Total	0	0	0	0	0	N/A	N/A	N/A	N/A

Changes to Existing Law: This proposal would make the following changes to sections 14502 of title 10, United States Code:

§ 14502. Special selection boards: correction of errors

(a) OFFICERS NOT CONSIDERED BECAUSE OF ADMINISTRATIVE ERROR.—(1) In the case of an officer or former officer who the Secretary of the military department concerned determines was not considered for selection for promotion from in or above the promotion zone by a mandatory promotion board convened under section 14101(a) of this title because of administrative error, or whose name was not placed on an all-fully-qualified-officers list under section 14308(b)(4) of this title because of administrative error, the Secretary concerned shall convene a special selection board under this subsection to determine whether such officer or former officer should be recommended for promotion. Any such board shall be convened under regulations prescribed by the Secretary of Defense and shall be appointed and composed in accordance with section 14102 of this title and shall include the representation of competitive categories required by that section. The members of a board convened under this subsection shall be required to take an oath in the same manner as prescribed in section 14103 of this title.

(2) A special selection board convened under this subsection shall consider the record of the officer or former officer as that record would have appeared to the promotion board that should have considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in a grade below the grade of colonel or, in the case of an officer or former officer of the Navy, captain, whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion.

(b) OFFICERS CONSIDERED BUT NOT SELECTED; MATERIAL ERROR.—(1) In the case of an

officer or former officer who was eligible for promotion and was considered for selection for promotion from in or above the promotion zone under this chapter by a ~~**selection board**~~ **mandatory promotion board convened under section 14101(a) of this title** but was not selected, the Secretary of the military department concerned may, under regulations prescribed by the Secretary of Defense, convene a special selection board under this subsection to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that—

(A) the action of the ~~**selection**~~ **mandatory promotion** board that considered the officer or former officer was contrary to law in a matter material to the decision of the board or involved material error of fact or material administrative error; or

(B) the ~~**selection**~~ **mandatory promotion** board did not have before it for its consideration material information.

(2) A special selection board convened under paragraph (1) shall be appointed and composed in accordance with section 14102 of this title (including the representation of competitive categories required by that section), and the members of such a board shall take an oath in the same manner as prescribed in section 14103 of this title.

(3) Such board shall consider the record of the officer or former officer as that record, if corrected, would have appeared to the ~~**selection**~~ **mandatory promotion** board that considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

(4) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in the grade of lieutenant colonel or commander or below whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion by the board which did consider the officer but incurs no additional failure of selection for promotion from the action of the special selection board.

(c) REPORT. —***

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