SEC. 506. AUTHORITY TO CONDUCT WARRANT OFFICER RETIRED GRADE DETERMINATIONS.

Section 1371 of title 10, United States Code, is amended—

(1) by inserting "highest" after "in the"; and

(2) by striking "that he held on the day before the date of his retirement, or in any higher warrant officer grade".

[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:

This proposal would amend section 1371 of title 10, United States Code, to provide that warrant officers retire in the highest grade in which they served satisfactorily before retirement. Currently, there is no authority to retire a warrant officer in a lower grade based upon substantiated misconduct or substandard performance of duty since the officer's last promotion. The absence of such authority sets warrant officers apart from other commissioned officers and enlisted members who, under certain circumstances, are placed on the retired list at a grade lower than the highest grade they held while in the service.

Pursuant to section 1370 of title 10, a commissioned officer (other than a commissioned warrant officer) retires in the highest grade satisfactorily held, as determined by the Secretary of the military department concerned. Thus, a commissioned officer above the warrant officer grades is subject to a mandatory grade determination upon retirement if the officer, since the officer's last promotion, was the subject of any adverse finding or conclusion from an officially documented investigation, proceeding, or inquiry that is, or should have been, documented in the officer's record. In practical terms, any negative of derogatory information in the commissioned officer's file since the officer's most recent promotion – whether it involves misconduct or substandard performance of duty – should automatically trigger a grade determination review upon retirement.

Unlike warrant officers, enlisted soldiers during their careers may be subject to a reduction in rank for inefficiency; as the result of punishment pursuant to proceedings under Article 15, Uniform Code of Military Justice; or as the result of a court-martial sentence. When so reduced, an enlisted member often retires not at the highest grade held (unless there is a determination that service in that grade was nonetheless satisfactory), but at the grade the soldier holds on the day before retirement.

This proposed change to section 1371 is especially timely as section 571 of title 10, United States Code, was amended by section 502 of the FY 2011 NDAA to allow the Secretaries of the military departments to appoint WO1s by commission. That amendment removed any meaningful distinction between warrant officers and more senior commissioned officers when it comes to method of appointment.

Budgetary Implications: The Army and Navy have processes for conducting retired grade determinations for other retiring commissioned officers. Normally, an officer by default will retire in the officer's current grade. A retired grade determination review becomes necessary if the officer has negative or derogatory information filed in the officer's official personnel since the officer's last promotion. Cases requiring a retired grade determination are identified by the Service's military personnel commands when the officer submits a voluntary retirement request or submits a request to retire in lieu of elimination. For other commissioned officers, these cases are forwarded to the Office of Manpower and Reserve Affairs (or designee) for the Service for a retired grade determination. The administrative task of requesting that Services conduct grade determination review boards for warrant officers can be handled by existing personnel and would generate minimal additional cost. Based on Agency case load and the agency budget, the Army estimates that it costs an average of $940 to process a case submitted to the Army Review Boards Agency. Thirty additional cases would generate a cost of $28,200. The Navy estimates that it costs an average of $200.00 to process a case. Fifteen additional cases would generate a cost of $3,000.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2016	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	.028	.028	.028	.028	.028	Operation and Maintenance, Army	04	431	0902398A
Air Force						Air Force does not have warrant officers.			
Navy	.003	.003	.003	.003	.003	Operation and Maintenance, Navy	01	BSS1	0208560N
Marine Corps						Marine Corps does not intend to use this authority.			
Total	.031	.031	.031	.031	.031				

The proposal would result in minor savings from a reduction in retired pay for warrant officers who retire in a lower grade as a result of a Grade Determination Review Board decision. The Army estimates an average annual saving in retired pay of $3,983 for each warrant officer so reduced. The Army estimates approximately 40 percent of grade determination cases result in retirement of the officer in a lower grade. The Navy estimates an average annual saving in retired pay of $4,063 for each warrant officer so reduced. The Navy estimates approximately 40 percent of grade determination cases result in retirement of the officer in a lower grade.

PERSONNEL AFFECTED									
	FY 2016	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	12	12	12	12	12	Military Personnel, Army	1	10	0904901A
Air Force						Air Force does not have warrant officers.			
Navy	6	6	6	6	6	Military Personnel, Navy	1	10	Various
Marine Corps						Marine Corps does not intend to use this authority.			
Total	18	18	18	18	18				

Change to Existing Law: This proposal would make the following changes to section 1371 of title 10, United States Code:

§ 1371. Warrant officers: general rule

Unless entitled to a higher retired grade under some other provision of law, a warrant officer retires, as determined by the Secretary concerned, in the highest permanent regular or reserve warrant officer grade, if any, ~~that he held on the day before the date of his retirement, or in any higher warrant officer grade~~ in which he served on active duty satisfactorily, as determined by the Secretary, for a period of more than 30 days.