SEC. ___. MODIFICATION OF SELECTION BOARD COMPOSITION CRITERIA.

(a) ADDITIONAL CATEGORIES OF OFFICES ELIGIBLE TO SERVE ON ACTIVE-DUTY LIST SELECTION BOARDS.—Section 612(a) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) In addition to the qualifications in paragraph (1), the Secretary of the military department concerned may prescribe by regulation additional qualifications for officers to serve on selection boards. If qualified officers on the active-duty list are not available in sufficient number to comprise the additional selection board membership as prescribed by regulation of the Secretary of the military department concerned, the Secretary may complete the additional membership of the board by appointing as members of the board officers who are members of the same armed force and hold a grade higher than the grade of officers under consideration by the board and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.".

(b) CROSS-REFERENCE AMENDMENT.—Paragraph (1) of such section is amended by striking "and (4)" and inserting "(4), and (5)".

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

Section-by-Section Analysis

Section 612 of title 10, United States Code, contains the statutory requirements pertaining to the composition of selection boards for officers on the Active-Duty List (ADL). Currently, only members of the same armed force on the ADL may compose board membership for that armed force, unless there are less than five officers of that armed force on the ADL in a grade higher than the officers being considered or unless there is not a single officer of that armed force on the ADL, in a grade higher than the officers being considered, and in the same competitive category of the officers being considered. The addition of a new paragraph (5) under 10 U.S.C. 612(a) would allow the Secretaries of the military departments to compose ADL selection boards with members from the retired list, reserve officers serving on active duty but

not on the ADL, or members of the Ready Reserve in order to satisfy regulatory composition requirements which exceed the statutory minimum requirements for 10 U.S.C. 612.

The Secretary of the Navy, through regulation and to the maximum extent possible, desires board members to be selected from a wide range of leadership positions, reflecting the diverse composition of the officer corps, including, for example, the Acquisition Corps (AC). The Secretary of the Navy waived the regulatory requirement for Acquisition Corps membership on Flag and General Officer selection boards on previous occasions due to the limited number of AC Flag and General Officers on the ADL serving in a grade higher than the officers being considered by the board. The Secretary of the Navy has also on previous occasions waived his regulatory requirements for the pay grade of members serving on selection boards, which require membership of a higher pay grade than the statutory minimum, in order to accommodate for an ADL AC member. Such waivers alter the membership dynamics of selection boards and deviate from the Secretary's intent.

Under section 612 of title 10, U.S. Code, it is not permissible to compose a selection board for officers on the ADL with officers from the retired list or the reserve active-status list (RASL) unless one of three very limited exceptions is met. *See* 10 U.S.C. 612(a)(2-4). By contrast, there is no prohibition under section 14102 of title 10, U.S. Code to appointing as many as half of the members of a RASL selection board with officers on the ADL. Therefore, the pool of membership composition for ADL selection boards is more limited than its RASL companion statute since no officer on the RASL may serve as a member of a selection board for officers on the ADL unless a reserve officer is being considered.

If enacted, this proposal would provide the Secretaries of the military departments enhanced authority for the composition of selection boards. Under section 612(a)(2)(A) currently , selection boards must be composed of at least one officer from the same competitive category of the officer being considered by that board unless no such officer in a higher pay grade than the officer being considered by the board exists. The Secretary of the Navy will also provide regulation that prescribed the qualifications of officers appointed from the retired list, reserve officers serving on active duty but not on the active-duty list, and members of the Ready Reserve.

The current language of 10 U.S.C. 612(a)(5) will remain unchanged, but will be redesignated as 10 U.S.C. 612(a)(6). All other language within the current text of section 612 will also remain unchanged except for a conforming cross-reference amendment in subsection (a)(1).

Budget Implications: The proposed change would not have an impact on Department of Defense budgets.

RESOURCE REQUIRMENTS ($MILLIONS)									
	FY 2017	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**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 section 612 of title 10, U.S. Code:

§ 612. Composition of selection boards

(a)(1) Members of selection boards shall be appointed by the Secretary of the military department concerned in accordance with this section. A selection board shall consist of five or more officers of the same armed force as the officers under consideration by the board. Each member of a selection board (except as provided in paragraphs (2), (3), ~~and~~ (4), and (5)) shall be an officer on the active-duty list. Each member of a selection board must be serving in a grade higher than the grade of the officers under consideration by the board, except that no member of a board may be serving in a grade below major or lieutenant commander.

(2)(A) Except as provided in subparagraph (B), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.
(B) A selection board need not include an officer from a competitive category to be considered by the board when there are no officers of that competitive category on the active-duty list in a grade higher than the grade of the officers to be considered by the board and eligible to serve on the board. However, in such a case the Secretary of the military department concerned, in his discretion, may appoint as a member of the board an officer of that competitive category who is not on the active-duty list from among officers of the same armed force as the officers under consideration by the board who hold a higher grade than the grade of the officers under consideration and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

(3) When reserve officers of an armed force are to be considered by a selection board, the membership of the board shall include at least one reserve officer of that armed force on active duty (whether or not on the active-duty list). The actual number of reserve officers shall be determined by the Secretary of the military department concerned in the Secretary's discretion. Notwithstanding the first sentence of this paragraph, in the case of a board which is considering officers in the grade of colonel or brigadier general or, in the case of officers of the Navy, captain or rear admiral (lower half), no reserve officer need be included if there are no reserve officers of that armed force on active duty in the next higher grade who are eligible to serve on the board.

(4) Except as provided in paragraphs (2) and (3), if qualified officers on the active-duty list are not available in sufficient number to comprise a selection board, the Secretary of the military department concerned shall complete the membership of the board by appointing as members of the board officers who are members of the same armed force and hold a grade higher than the grade of the officers under consideration by the board and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

(5) In addition to the qualifications in paragraph (1), the Secretary of the military department concerned may prescribe by regulation additional qualifications for officers to serve on selection boards. If qualified officers on the active-duty list are not available in sufficient number to comprise the additional selection board membership as prescribed by regulation of the Secretary of the military department concerned, the Secretary may complete the additional membership of the board by appointing as members of the board officers who are members of the same armed force and hold a grade higher than the grade of officers under consideration by the board and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

~~(5)~~ (6) A retired general or flag officer who is on active duty for the purpose of serving on a selection board shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.

(b) No officer may be a member of two successive selection boards convened under section 611(a) of this title for the consideration of officers of the same competitive category and grade.

(c)(1) Each selection board convened under section 611(a) of this title that will consider an officer described in paragraph (2) shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is a joint qualified officer.

(2) Paragraph (1) applies with respect to an officer who—

(A) is serving on, or has served on, the Joint Staff; or

(B) is a joint qualified officer.

(3) The Secretary of Defense may waive the requirement in paragraph (1) in the case of—

(A) any selection board of the Marine Corps; or

(B) any selection board that is considering officers in specialties identified in paragraph (2) or (3) of section 619a(b) of this title.