

## EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

**CHAPTER 544—TEMPORARY APPOINTMENTS**

Sec.  
5721. Temporary promotions of certain Navy lieutenants.

**§ 5721. Temporary promotions of certain Navy lieutenants**

(a) PROMOTION AUTHORITY FOR CERTAIN OFFICERS WITH CRITICAL SKILLS.—An officer in the line of the Navy in the grade of lieutenant who—

(1) has a skill in which the Navy has a critical shortage of personnel (as determined by the Secretary of the Navy); and

(2) is serving in a position (as determined by the Secretary of the Navy) which (A) is designated to be held by a lieutenant commander, and (B) requires that an officer serving in such position have the skill possessed by such officer,

may be temporarily promoted to the grade of lieutenant commander under regulations to be prescribed by the Secretary of the Navy. Appointments under this section shall be made by the President, by and with the advice and consent of the Senate.

(b) STATUS OF OFFICERS APPOINTED.—(1) An appointment under this section does not change the position on the active-duty list or the permanent, probationary, or acting status of the officer so appointed, prejudice the officer in regard to other promotions or appointments, or abridge the rights or benefits of the officer.

(2) For the purposes of section 523 of this title, an officer holding an appointment under this section is considered as serving in the grade of lieutenant commander.

(c) BOARD RECOMMENDATION REQUIRED.—A temporary promotion under this section may be made only upon the recommendation of a board of officers convened by the Secretary of the Navy for the purpose of recommending officers for such promotions.

(d) ACCEPTANCE AND EFFECTIVE DATE OF APPOINTMENT.—Each appointment under this section, unless expressly declined, is, without formal acceptance, regarded as accepted on the date such appointment is made, and a member so appointed is entitled to the pay and allowances of the grade of lieutenant commander from the date the appointment is made.

(e) TERMINATION OF APPOINTMENT.—Unless sooner terminated, an appointment under this section terminates—

(1) on the date the officer who received the appointment is promoted to the permanent grade of lieutenant commander; or

(2) on the date the officer is detached from a position described in subsection (a)(2), unless the officer is on a promotion list to the permanent grade of lieutenant commander, in which case the appointment terminates on the date the officer is promoted to that grade.

(f) LIMITATION ON NUMBER OF ELIGIBLE POSITIONS.—An appointment under this section may only be made for service in a position designated

by the Secretary of the Navy for purposes of this section. The number of positions so designated may not exceed 325.

(Added Pub. L. 96-513, title III, § 334, Dec. 12, 1980, 94 Stat. 2897; amended Pub. L. 98-94, title IV, § 403, Sept. 24, 1983, 97 Stat. 629; Pub. L. 98-525, title V, § 514, Oct. 19, 1984, 98 Stat. 2522; Pub. L. 99-661, div. A, title V, § 503, Nov. 14, 1986, 100 Stat. 3864; Pub. L. 100-180, div. A, title V, § 501(a), Dec. 4, 1987, 101 Stat. 1085; Pub. L. 101-189, div. A, title V, § 512(a), Nov. 29, 1989, 103 Stat. 1439; Pub. L. 102-484, div. A, title V, § 507, Oct. 23, 1992, 106 Stat. 2405; Pub. L. 103-160, div. A, title V, § 508(a), Nov. 30, 1993, 107 Stat. 1647; Pub. L. 104-106, div. A, title V, § 508(a), (b), (d), Feb. 10, 1996, 110 Stat. 296, 297; Pub. L. 104-201, div. A, title V, § 503, Sept. 23, 1996, 110 Stat. 2511; Pub. L. 107-314, div. A, title X, § 1041(a)(20), Dec. 2, 2002, 116 Stat. 2645.)

## AMENDMENTS

2002—Subsec. (f). Pub. L. 107-314 struck out par. (1) designation and struck out par. (2) which read as follows: “Whenever the Secretary makes a change to the positions designated under paragraph (1), the Secretary shall submit notice of the change in writing to Congress.”

1996—Subsec. (a). Pub. L. 104-201, § 503(a), (c), substituted “Officers” for “Officer” in heading and “the President, by and with the advice and consent of the Senate” for “the President alone” in concluding provisions.

Pub. L. 104-106, § 508(d)(1), inserted heading.

Subsecs. (b) to (e). Pub. L. 104-106, § 508(d)(2)–(5), inserted headings.

Subsec. (f). Pub. L. 104-106, § 508(b)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 104-106, § 508(a), substituted “September 30, 1996” for “September 30, 1995”.

Subsec. (g). Pub. L. 104-201, § 503(b), struck out subsec. (g) which read as follows: “TERMINATION OF APPOINTMENT AUTHORITY.—The authority to make appointments under this section terminates on September 30, 1996.”

Pub. L. 104-106, § 508(d)(6), inserted heading.

Pub. L. 104-106, § 508(b)(1), redesignated subsec. (f) as (g).

1993—Subsec. (f). Pub. L. 103-160 substituted “September 30, 1995” for “September 30, 1993”.

1992—Subsec. (f). Pub. L. 102-484 substituted “September 30, 1993” for “September 30, 1992”.

1989—Subsec. (f). Pub. L. 101-189 substituted “September 30, 1992” for “September 30, 1989”.

1987—Subsec. (f). Pub. L. 100-180 substituted “September 30, 1989” for “September 30, 1987”.

1986—Subsec. (f). Pub. L. 99-661 substituted “September 30, 1987” for “September 30, 1986”.

1984—Subsec. (f). Pub. L. 98-525 substituted “September 30, 1986” for “September 30, 1984”.

1983—Subsec. (f). Pub. L. 98-94 substituted “September 30, 1984” for “September 30, 1983”.

## EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title V, § 508(e), Feb. 10, 1996, 110 Stat. 297, provided that: “Subsection (f) of section 5721 of title 10, United States Code, as added by subsection (b)(2), shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to any appointment under that section after the end of such period.”

## EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title V, § 508(b), Nov. 30, 1993, 107 Stat. 1647, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as of September 30, 1993.”

## EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-484, div. A, title V, §507, Oct. 23, 1992, 106 Stat. 2405, provided that the amendment made by that section is effective Sept. 29, 1992.

## EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## SAVINGS PROVISION

Pub. L. 101-189, div. A, title V, §512(b), Nov. 29, 1989, 103 Stat. 1439, provided that:

“(1) The Secretary of the Navy shall provide, in the case of an officer appointed to the grade of lieutenant commander on or after the date of the enactment of this Act [Nov. 29, 1989] under an appointment described in paragraph (2), that the date of rank of such officer under that appointment shall be the date of rank that would have applied to the appointment had the authority referred to in that paragraph not lapsed.

“(2) An appointment referred to in paragraph (1) is an appointment under 5721 of title 10, United States Code, that (as determined by the Secretary of the Navy) would have been made during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act had the authority to make appointments under that section not lapsed during such period.”

Similar provisions were contained in the following prior authorization act:

Pub. L. 100-180, div. A, title V, §501(b), Dec. 4, 1987, 101 Stat. 1085.

## DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) to make certain temporary appointments to grade of lieutenant commander delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(d), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

## TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provision that any officer who on September 15, 1981 holds a temporary appointment in the grade of lieutenant commander under former section 5787d of this title, shall on and after that date be considered to be serving in such grade as if the appointment had been made under this section, see section 617 of Pub. L. 96-513, set out as a note under section 611 of this title.

## [CHAPTER 545—REPEALED]

**[§§ 5751 to 5758. Repealed. Pub. L. 96-513, title III, § 333, Dec. 12, 1980, 94 Stat. 2897]**

Section 5751, acts Aug. 10, 1956, ch. 1041, 70A Stat. 346; Aug. 3, 1961, Pub. L. 87-123, §5(16), 75 Stat. 266, related to eligibility for consideration by a selection board for promotion of male officers in line of Navy and male officers in Marine Corps. See section 619 of this title.

Section 5752, acts Aug. 10, 1956, ch. 1041, 70A Stat. 347; Sept. 2, 1958, Pub. L. 85-861, §1(126), 72 Stat. 1497; Nov. 8, 1967, Pub. L. 90-130, §1(19)(A)-(C), 81 Stat. 378, related to eligibility for consideration by a selection board for promotion of women officers in line of Navy and women officers in Marine Corps. See section 619 of this title.

Section 5753, acts Aug. 10, 1956, ch. 1041, 70A Stat. 347; Aug. 21, 1957, Pub. L. 85-155, title II, §201(8), 71 Stat. 382; Nov. 7, 1967, Pub. L. 90-130, §1(19)(D), 81 Stat. 378; Dec. 8, 1967, Pub. L. 90-179, §12, 81 Stat. 549, related to eligibility of Navy staff corps officers for consideration for promotion by a selection board. See section 619 of this title.

Section 5754, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, prescribed general conditions for eligibility for consideration by a selection board for promotion. See section 619 of this title.

Section 5755, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, related to communications between a selection board and an officer eligible for consideration for promotion by such board. See section 614 of this title.

Section 5756, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, directed Secretary of Navy to furnish appropriate selection board with number of male officers in line of Navy or of Marine Corps that could be recommended for promotion to next highest grade and prescribed a formula for arriving at such number. See section 622 of this title.

Section 5757, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, directed Secretary of Navy to furnish appropriate selection board with number of male officers in line of Navy or of Marine Corps designated for limited duty that could be recommended for promotion to next highest grade and prescribed a formula for arriving at such number. See section 622 of this title.

Section 5758, act Aug. 10, 1956, ch. 1041, 70A Stat. 349, directed Secretary of Navy to furnish appropriate selection board with numbers of officers designated for engineering, aeronautical engineering, and special duty that could be recommended for promotion to grade of rear admiral and numbers of male officers designated for such duty that could be recommended for promotion to a grade below rear admiral and prescribed formulas for arriving at such numbers. See section 622 of this title.

## EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## SELECTION BOARDS CONVENED BETWEEN JULY 10, 1981, AND SEPTEMBER 15, 1981; SERVICE IN GRADE REQUIREMENTS; REGULATIONS

Pub. L. 97-22, §9, July 10, 1981, 95 Stat. 136, provided that for selection boards convened on or after July 10, 1981, and before Sept. 15, 1981, service in grade requirements shall be established under regulations prescribed by Secretary of the Navy for eligibility for consideration for promotion of female officers in the line of the Navy to grade of lieutenant commander and female officers in the Marine Corps to grade of major.

**[§ 5759. Repealed. Pub. L. 87-123, §5(17), Aug. 3, 1961, 75 Stat. 266]**

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 349, required Secretary to furnish selection boards with number of Marine Corps officers designated for supply duty that could be recommended for promotion.

**[§§ 5760 to 5773. Repealed. Pub. L. 96-513, title III, § 333, Dec. 12, 1980, 94 Stat. 2897]**

Section 5760, acts Aug. 10, 1956, ch. 1041, 70A Stat. 350; Nov. 8, 1967, Pub. L. 90-130, §1(19)(E), (F), 81 Stat. 378, directed Secretary of Navy to furnish appropriate selection board with number of women officers in the line of Navy that could be recommended for promotion to grade of lieutenant, captain, commander, or lieutenant commander and number of women officers of Marine Corps that could be recommended for promotion to grade of captain, colonel, lieutenant colonel, or major. See section 622 of this title.

Section 5761, act Aug. 10, 1956, ch. 1041, 70A Stat. 350, directed Secretary of Navy to furnish appropriate selection board with number of officers in any staff corps that could be recommended for promotion to grade of rear admiral. See section 622 of this title.

Section 5762, acts Aug. 10, 1956, ch. 1041, 70A Stat. 351; Aug. 21, 1957, Pub. L. 85-155, title II, §201(9), 71 Stat. 383; Nov. 8, 1967, Pub. L. 90-130, §1(19)(G), (H), 81 Stat. 378; Dec. 8, 1967, Pub. L. 90-179, §6, 81 Stat. 548, directed Sec-