

104TH CONGRESS
1ST SESSION

H. R. 1567

To provide for the establishment of a Professional Trade Service Corps,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1995

Ms. KAPTUR introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the establishment of a Professional Trade
Service Corps, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Professional Trade Service Corps Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

TITLE I—THE PROFESSIONAL TRADE SERVICE CORPS

- Sec. 101. Definitions; references.
- Sec. 102. Establishment.
- Sec. 103. Tier I.
- Sec. 104. Tier II.
- Sec. 105. The Councils.
- Sec. 106. Rights of former members.
- Sec. 107. Effective date.

TITLE II—THE TRADE SERVICE INSTITUTE

- Sec. 201. Establishment.
- Sec. 202. Director of the Trade Service Institute.
- Sec. 203. Staff.
- Sec. 204. Acquisition of property.
- Sec. 205. Service agreements.

TITLE III—POSTEMPLOYMENT RESTRICTIONS

- Sec. 301. Postemployment restrictions.
- Sec. 302. Effective date.

1 **TITLE I—THE PROFESSIONAL**
 2 **TRADE SERVICE CORPS**

3 **SEC. 101. DEFINITIONS; REFERENCES.**

4 (a) DEFINITIONS.—For the purpose of this Act—

5 (1) the term “trade-related agency” means—

6 (A) the Office of the United States Trade
 7 Representative;

8 (B) each office or other unit within the
 9 Department of State under the Under Sec-
 10 retary for Economic and Agricultural Affairs;

11 (C) the Department of Commerce, exclud-
 12 ing the Bureau of the Census;

13 (D) the Foreign Agricultural Service of the
 14 Department of Agriculture;

15 (E) the Bureau of International Labor Af-
 16 fairs of the Department of Labor; and

1 (F) each office or other unit within the De-
2 partment of the Treasury under—

3 (i) the Deputy Assistant Secretary for
4 Trade and Investment Policy; or

5 (ii) the Deputy Assistant Secretary
6 for Regulatory, Tariff and Trade Enforce-
7 ment;

8 (2) the term “Corps” means the Professional
9 Trade Service Corps, as established under this title;

10 (3) the term “Tier I” means Tier I of the
11 Corps, as described in section 103;

12 (4) the term “Tier II” means Tier II of the
13 Corps, as described in section 104;

14 (5) the term “certified member of Tier I”
15 means an employee in a position, in grade GS-12
16 (or a higher grade) of the General Schedule, within
17 a trade-related agency, who—

18 (A) has received certification under section
19 103(d); and

20 (B) has not had such certification termi-
21 nated under section 103(f) or otherwise;

22 (6) the term “member of the Corps” means any
23 individual who—

24 (A) is a certified member of Tier I; or

1 (B) holds a position in Tier II (excluding
2 any individual under subparagraph (A));

3 (7) the term “Institute” means the Trade Serv-
4 ice Institute, as described in title II;

5 (8) the term “Policy Council” means the Policy
6 Trade Service Interagency Council referred to in sec-
7 tion 105(a)(1);

8 (9) the term “Career Council” means the Ca-
9 reer Trade Service Interagency Council referred to
10 in section 105(a)(2);

11 (10) the term “Government” means the United
12 States Government; and

13 (11) the term “Director of the Institute” or
14 “Director” means the Director of the Trade Service
15 Institute under section 202.

16 (b) REFERENCES.—A reference in this Act to a grade
17 of the General Schedule shall, with respect to the trade-
18 related agency under subsection (a)(1)(B), be considered
19 to be a reference to the corresponding grade of the For-
20 eign Service Schedule, as determined under regulations
21 prescribed by the member of the Policy Council under sec-
22 tion 105(a)(1)(B).

23 **SEC. 102. ESTABLISHMENT.**

24 (a) IN GENERAL.—There shall be established within
25 the trade-related agencies a Professional Trade Service

1 Corps, which shall consist of 2 tiers as described in sec-
2 tions 103 and 104, respectively.

3 (b) REGULATIONS.—The Career Council shall, in ac-
4 cordance with applicable provisions of this title, prescribe
5 regulations relating to any procedures, criteria, or other
6 matters (excluding any matter as to which any other en-
7 tity or individual is permitted or required to prescribe reg-
8 ulations under this title) which may be necessary to carry
9 out this title.

10 **SEC. 103. TIER I.**

11 (a) ELIGIBILITY.—To be eligible to become a can-
12 didate for Tier I, an individual must, as of the time of
13 application—

14 (1) hold a position, in a trade-related agency, in
15 grade GS-12, 13, 14, or 15 of the General Schedule;

16 (2) have, in the aggregate, at least—

17 (A) 2 years of service in 1 or more of the
18 trade-related agencies;

19 (B) 2 years of comparable experience, as a
20 Government employee, outside of the trade-re-
21 lated agencies; or

22 (C) any combination of service or experi-
23 ence, as described in subparagraphs (A) and
24 (B), respectively, totalling at least 2 years; and

25 (3) demonstrate—

1 (A) substantive knowledge of trade policy
2 or trade negotiations;

3 (B) aptitude for analytical thinking;

4 (C) effective written and oral communica-
5 tion skills; and

6 (D) familiarity, ability, and willingness to
7 work with the private sector, the Congress,
8 Government agencies, and the press.

9 (b) ACADEMIC REQUIREMENTS.—(1) Any individual
10 who is accepted as a candidate for Tier I shall be required
11 to pursue, concurrent with service in such individual's reg-
12 ular position in a trade-related agency or while fulfilling
13 the rotational requirement under subsection (c), a com-
14 prehensive program of study at the Institute.

15 (2) The purpose of the program of study shall be to
16 ensure that members of the Corps are well-informed with
17 respect to current trends as well as the history of trade
18 negotiations, aware of the economic and political consider-
19 ations relevant to trade negotiations, knowledgeable of the
20 affairs, cultures, and languages of other countries, and
21 otherwise well prepared to represent the interests of the
22 United States in trade negotiations, or to carry out Gov-
23 ernment functions relating thereto.

24 (3) To carry out the purpose described in paragraph
25 (2), the Director of the Institute, in consultation with the

1 Career Council and the Policy Council, shall develop the
2 course requirements for candidates for Tier I. At a mini-
3 mum, the program shall include courses relating to—

4 (A) the history of, and current trends in, trade
5 negotiations of the United States;

6 (B) trade-negotiation strategies;

7 (C) the economics and politics of trade;

8 (D) cultural and business practices of countries
9 with which the United States has significant trade
10 relations;

11 (E) foreign languages; and

12 (F) operations within and interrelationships
13 among the various trade-related agencies.

14 (c) ROTATIONAL REQUIREMENT.—(1) In order to af-
15 ford the opportunity to acquire direct experience relating
16 to the matter described in subsection (b)(3)(F) and other-
17 wise develop the qualities referred to in subsection
18 (a)(3)(D), candidates for Tier I shall be required to com-
19 plete at least 1 tour of duty either—

20 (A) by detail or temporary reassignment, as the
21 case may be, to—

22 (i) a position within another trade-related
23 agency; or

24 (ii) a Government position outside of the
25 trade-related agencies; or

1 (B) by temporary assignment to a position out-
2 side the Government.

3 (2) Selections under this subsection shall, to the max-
4 imum extent practicable, take into account the interests
5 and abilities of the individual involved, as well as the needs
6 of the Government.

7 (3) A tour of duty under this subsection shall last
8 at least 12 months.

9 (4)(A) The provisions of section 3373 of title 5,
10 United States Code, relating to the continuation of level
11 of pay, benefits, and status, shall apply with respect to
12 any employee assigned to a position outside the Govern-
13 ment, pursuant to paragraph (1)(B), in the same way as
14 if it were a position to which such provisions would other-
15 wise apply.

16 (B) The Office of Personnel Management shall pre-
17 scribe any regulations necessary to carry out this para-
18 graph.

19 (d) CERTIFICATION.—To become a certified member
20 of Tier I, an individual must—

21 (1) successfully complete the academic require-
22 ments under subsection (b) in accordance with such
23 timetable as the Director shall establish (such time-
24 table to permit such longer periods of time as the
25 Director may consider necessary based on an indi-

1 vidual's grade level at time of entry and other rel-
2 evant factors);

3 (2) successfully complete the rotational require-
4 ment under subsection (c) within such time as the
5 Director may require; and

6 (3) receive performance evaluations indicating
7 at least a fully successful level of competence
8 throughout the period while completing the require-
9 ments of the program.

10 (e) RIGHTS BASED ON CERTIFICATION.—A certified
11 member of Tier I—

12 (1) may be appointed to a position in Tier II,
13 if otherwise qualified for such position;

14 (2) shall be eligible for advanced courses and
15 continuing education through the Institute; and

16 (3) shall be eligible for such other forms of
17 training (including preferential consideration, con-
18 sistent with otherwise applicable provisions of law,
19 for additional rotations) as the trade-related agen-
20 cies may provide, in accordance with guidelines es-
21 tablished by the Policy Council.

22 (f) PERIODIC RECERTIFICATION.—(1) In order to en-
23 sure that certified members of Tier I maintain the level
24 of excellence necessary to carry out the purposes of this
25 Act, each such member shall be subject to such periodic

1 recertification requirements as the Career Council shall by
2 regulation prescribe.

3 (2) Paragraph (1) shall not apply with respect to any
4 individual holding a position within Tier II.

5 **SEC. 104. TIER II.**

6 (a) IN GENERAL.—Tier II shall consist of the follow-
7 ing positions:

8 (1) Within the trade-related agency described in
9 section 101(a)(1)(A):

10 (A) 1 of the Deputy United States Trade
11 Representative positions (as designated by the
12 United States Trade Representative).

13 (B) Assistant United States Trade Rep-
14 resentative.

15 (C) Deputy Assistant United States Trade
16 Representative.

17 (D) Deputy General Counsel.

18 (E) Associate General Counsel.

19 (2) Within the trade-related agency described in
20 section 101(a)(1)(B):

21 (A) Deputy Assistant Secretaries under the
22 Under Secretary of State for Economic and Ag-
23 ricultural Affairs.

24 (3) Within the trade-related agencies described
25 in section 101(a)(1)(C):

1 (A) Deputy Assistant Secretaries.

2 (B) Office Directors.

3 (4) Within the trade-related agency described in
4 section 101(a)(1)(D):

5 (A) Associate Administrator for Trade Pol-
6 icy and Agricultural Affairs.

7 (B) Assistant Administrator for Foreign
8 Agricultural Affairs.

9 (C) Deputy Assistant Administrator.

10 (D) Area Officer Positions.

11 (5) Within the trade-related agency described in
12 section 101(a)(1)(E):

13 (A) Deputy Under Secretary.

14 (B) Associate Deputy Under Secretary.

15 (C) Office Directors.

16 (6) Within the trade-related agency described in
17 section 101(a)(1)(F):

18 (A) Deputy Assistant Secretary for Regu-
19 latory, Tariff and Trade Enforcement.

20 (B) Director, Office of Trade and Tariff
21 Affairs.

22 (C) Deputy Assistant Secretary for Trade
23 and Investment Policy.

24 (D) Director of the Office of International
25 Investment.

1 (E) Director of the Office of International
2 Trade.

3 (b) RESERVATION OF POSITIONS.—Except as pro-
4 vided in subsection (c) of this section or section 107(b)
5 of this Act, positions within Tier II may not be filled by
6 any individual other than—

7 (1) a certified member of Tier I;

8 (2) an individual who, immediately before ap-
9 pointment to or placement in the position involved,
10 holds a position in Tier II; or

11 (3) an individual who is able to demonstrate, by
12 meeting such academic and other requirements as
13 the Career Council establishes, at least the minimum
14 level of training and expertise possessed by an indi-
15 vidual described in paragraph (1) or (2).

16 (c) WAIVER AUTHORITY.—(1) The appropriate mem-
17 ber of the Policy Council (as defined in paragraph (3))
18 may waive the application of subsection (b) with respect
19 to a position within such member's agency if, in accord-
20 ance with guidelines which the Policy Council shall pre-
21 scribe, such member determines such waiver to be nec-
22 essary due to the unavailability of any candidate who sat-
23 isfies such subsection.

24 (2) Under the guidelines, a waiver under this sub-
25 section shall remain in effect for no longer than necessary

1 to permit the appointment of a qualified candidate who
2 satisfies subsection (b).

3 (3) For the purpose of this subsection, the appro-
4 priate member of the Policy Council for the trade-related
5 agency under subparagraph (A), (B), (C), (D), (E), or (F)
6 of section 101(a)(1), is the member specified in the cor-
7 responding subparagraph of section 105(a)(1).

8 **SEC. 105. THE COUNCILS.**

9 (a) IN GENERAL.—In order to carry out this Act,
10 there shall be established—

11 (1) a Policy Trade Service Interagency Council,
12 which shall consist of—

13 (A) the United States Trade Representa-
14 tive (or the Trade Representative’s delegate);

15 (B) the Secretary of State (or the Sec-
16 retary’s delegate);

17 (C) the Secretary of Commerce (or the
18 Secretary’s delegate);

19 (D) the Secretary of Agriculture (or the
20 Secretary’s delegate);

21 (E) the Secretary of Labor (or the Sec-
22 retary’s delegate); and

23 (F) the Secretary of the Treasury (or the
24 Secretary’s delegate); and

1 (2) a Career Trade Service Interagency Council,
2 consisting of 6 members, who shall be appointed in
3 accordance with subsection (b).

4 (b) APPOINTMENTS TO THE CAREER COUNCIL.—(1)
5 Each member of the Policy Council shall appoint 1 mem-
6 ber of the Career Council.

7 (2) Only members of the Corps shall be eligible to
8 serve on the Career Council.

9 (3) A vacancy in the Career Council shall be filled
10 in the manner in which the original appointment was
11 made.

12 (4) The term of appointment for a member of the
13 Career Council shall be 1 year, except that any individual
14 appointed to fill a vacancy occurring prior to the expira-
15 tion of the term for which such member's predecessor was
16 appointed may serve only for the remainder of such term,
17 subject to paragraph (5).

18 (5) A member may serve after the expiration of such
19 member's term until a successor has taken office.

20 (6) Nothing in this subsection shall prevent an indi-
21 vidual from being appointed to the Career Council more
22 than once.

23 (c) PAY.—Members of the Policy Council and mem-
24 bers of the Career Council shall receive no additional pay

1 on account of their service on the Policy Council or the
2 Career Council, as the case may be.

3 **SEC. 106. RIGHTS OF FORMER MEMBERS.**

4 Any individual who is involuntarily separated from
5 the Corps (except for failure to be recertified under 103(f)
6 or otherwise for cause) shall—

7 (1) consistent with otherwise applicable provi-
8 sions of law, and upon appropriate application, be
9 restored at the earliest date possible to such individ-
10 ual's former position or another position in the
11 Corps which is commensurate with the individual's
12 training and background; and

13 (2) for purposes of any determination of eligi-
14 bility for a position within Tier II, continue to be
15 treated, during the 12-month period beginning on
16 the date of separation, as a certified member of Tier
17 I.

18 **SEC. 107. EFFECTIVE DATE.**

19 (a) IN GENERAL.—Except as provided in subsection
20 (b), this title shall take effect on the first day of the first
21 fiscal year beginning after the date of the enactment of
22 this Act.

23 (b) EXCEPTIONS.—(1) The provisions of sections
24 104(b) (relating to eligibility for appointment to a position
25 within Tier II) and 105(b)(2) (relating to eligibility for

1 appointment as a member of the Career Council) shall
2 apply with respect to appointments taking effect after the
3 end of the 5-year period beginning on the effective date
4 of this title.

5 (2) Any individual who, immediately before the end
6 of the 5-year period referred to in paragraph (1), holds
7 a position which is to become a part of Tier II, shall not
8 be eligible to continue in such position after the end of
9 such period—

10 (A) unless such individual is determined, within
11 the last year of such 5-year period, to satisfy criteria
12 which the Career Council shall establish, consistent
13 with those under section 104(b)(3); or

14 (B) except if, or for so long as, a waiver re-
15 mains in effect with respect to such position under
16 section 104(c).

17 **TITLE II—THE TRADE SERVICE** 18 **INSTITUTE**

19 **SEC. 201. ESTABLISHMENT.**

20 The Policy Council shall establish a Trade Service In-
21 stitute in order to furnish training and instruction—

22 (1) to candidates for Tier I;

23 (2) to members of the Corps; and

24 (3) to such other Government employees as may
25 be appropriate.

1 **SEC. 202. DIRECTOR OF THE TRADE SERVICE INSTITUTE.**

2 (a) APPOINTMENT.—(1) The head of the Institute,
3 who shall be known as the Director of the Trade Service
4 Institute, shall be appointed by the Policy Council from
5 among individuals recommended by the Career Council.

6 (2) The Director shall be appointed for a term of 2
7 years, which shall be renewable.

8 (b) DUTIES.—The Director shall, in accordance with
9 section 103(b) and other applicable provisions of this
10 Act—

11 (1) establish the basic procedures to be followed
12 by the Institute;

13 (2) plan and provide for the general nature of
14 the training and instruction to be furnished by the
15 Institute;

16 (3) correlate the training and instruction to be
17 furnished by the Institute with training activities
18 otherwise available through Government facilities or
19 other sources;

20 (4) encourage and foster programs outside of
21 the Institute that will complement those furnished
22 by the Institute; and

23 (5) take any other action which may be nec-
24 essary for the proper administration of the Institute.

1 **SEC. 203. STAFF.**

2 (a) IN GENERAL.—The Director may appoint such
3 faculty or other staff of the Institute as the Director con-
4 siders necessary to carry out its purposes.

5 (b) APPLICABILITY OF CIVIL SERVICE LAWS.—The
6 faculty and other staff of the Institute shall be appointed
7 subject to the provisions of title 5, United States Code,
8 governing appointments in the competitive service, and
9 shall be paid in accordance with the provisions of chapter
10 51 and subchapter III of chapter 53 of such title relating
11 to classification and General Schedule pay rates, and such
12 other related provisions of law as may apply.

13 (c) CRITERIA.—All appointments under this section
14 shall be made without regard to political affiliation and
15 shall be made solely on the basis of demonstrated interest
16 in, and capacity to promote, the purposes of the Institute.

17 (d) DETAILS.—Upon request of the Director, the
18 head of any Government agency may detail, on a reim-
19 bursable or nonreimbursable basis, any of the personnel
20 of such agency to the Institute to assist it in carrying out
21 its duties under this Act.

22 **SEC. 204. ACQUISITION OF PROPERTY.**

23 (a) IN GENERAL.—The Director may, in the name
24 of the United States, acquire such real property, and such
25 other property and equipment, as may be necessary for
26 the operation and maintenance of the Institute.

1 (b) LIMITATION.—Authority under subsection (a)
2 shall be effective only to such extent or in such amounts
3 as are provided in advance in appropriation Acts.

4 **SEC. 205. SERVICE AGREEMENTS.**

5 (a) IN GENERAL.—A Government employee (other
6 than one under section 201(3)) accepted for instruction
7 or training at the Institute shall agree in writing with the
8 Government, before commencement of such instruction or
9 training, that such employee will—

10 (1) remain in the service of the Government
11 after the end of the period of instruction or training
12 for a period equal to at least 3 times the length of
13 the period of instruction or training, as the case may
14 be; and

15 (2) pay to the Government the amount of the
16 expenses incurred by the Government in connection
17 with providing such instruction or training to such
18 employee if such employee is voluntarily separated
19 from Government service before the end of the pe-
20 riod for which such employee has agreed to remain
21 in Government service.

22 (b) RIGHT OF RECOVERY.—If an employee becomes
23 liable to the Government under subsection (a), but fails
24 to fulfill such employee's obligation to pay, a sum equal
25 to the amount for which such employee is so liable shall

1 be recoverable by the Government from the employee or
2 the employee's estate by—

3 (1) setoff against accrued pay, compensation,
4 amount of retirement credit, or other amount due
5 the employee from the Government; and

6 (2) such other method as is provided by law for
7 the recovery of amounts owing to the Government.

8 The head of the agency concerned may waive, in whole
9 or in part, a right of recovery under this subsection if it
10 is shown that recovery would be against equity and good
11 conscience or against the public interest.

12 **TITLE III—POSTEMPLOYMENT** 13 **RESTRICTIONS**

14 **SEC. 301. POSTEMPLOYMENT RESTRICTIONS.**

15 Section 207(f) of title 18, United States Code, is
16 amended to read as follows:

17 “(f) RESTRICTIONS RELATING TO FOREIGN ENTI-
18 TIES.—

19 “(1) PERSONS SUBJECT TO SUBSECTION (C),
20 (D), OR (E).—Any person who is subject to the re-
21 strictions contained in subsection (c), (d), or (e)
22 (other than a person under paragraph (2)) and who
23 knowingly, within 8 years after leaving the position,
24 office, or employment referred to in such sub-
25 section—

1 “(A) represents a foreign entity before any
2 officer or employee of any department or agen-
3 cy of the United States with the intent to influ-
4 ence a decision of such officer or employee in
5 carrying out his or her official duties, or

6 “(B) aids or advises a foreign entity with
7 the intent to influence a decision of any officer
8 or employee of any department or agency of the
9 United States, in carrying out his or her official
10 duties,

11 shall be punished as provided in section 216 of this
12 title.

13 “(2) FORMER MEMBERS OF THE PROFESSIONAL
14 TRADE SERVICE CORPS.—Any person who is a mem-
15 ber of the Professional Trade Service Corps and who
16 knowingly, within 8 years after ceasing to be such
17 a member—

18 “(A) represents a foreign entity before any
19 officer or employee of any department or agen-
20 cy of the United States with the intent to influ-
21 ence a decision of such officer or employee in
22 carrying out his or her official duties, or

23 “(B) aids or advises a foreign entity with
24 the intent to influence a decision of any officer
25 or employee of any department or agency of the

1 United States, in carrying out his or her official
2 duties,
3 shall be punished as provided in section 216 of this
4 title.

5 “(3) DEFINITIONS.—For purposes of this sub-
6 section—

7 “(A) the term ‘foreign entity’ means the
8 government of a foreign country as defined in
9 section 1(e) of the Foreign Agents Registration
10 Act of 1938, as amended, or a foreign political
11 party as defined in section 1(f) of that Act; and

12 “(B) the term ‘member of the Professional
13 Trade Service Corps’ means a ‘member of the
14 Corps’, as defined by section 101(a)(6) of the
15 Professional Trade Service Corps Act.’”.

16 **SEC. 302. EFFECTIVE DATE.**

17 (a) IN GENERAL.—Subject to subsection (b), this
18 title and the amendments made by this title shall take ef-
19 fect as of the effective date of title I.

20 (b) EXCEPTION.—(1) The amendments made by this
21 title shall not, except as provided in paragraph (2), apply
22 to a person whose service as a Government employee to
23 which such amendments apply terminated before the effec-
24 tive date of such amendments.

1 (2) Paragraph (1) shall not preclude the application
2 of the amendments made by this title to a person with
3 respect to service as a Government employee by that per-
4 son on or after the effective date of such amendments.

○

HR 1567 IH—2