

In the Senate of the United States,

August 5, 2010.

Resolved, That the bill from the House of Representatives (H.R. 1517) entitled “An Act to allow certain U.S. Customs and Border Protection employees who serve under an overseas limited appointment for at least 2 years, and whose service is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive service.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. DEFINITIONS.***

2 *For purposes of this Act—*

3 *(1) the term “Commissioner” means the Com-*
4 *missioner of U.S. Customs and Border Protection;*

5 *(2) the term “U.S. Customs and Border Protec-*
6 *tion” means U.S. Customs and Border Protection of*
7 *the Department of Homeland Security;*

1 (3) the term “competitive service” has the mean-
2 ing given such term by section 2102 of title 5, United
3 States Code; and

4 (4) the term “overseas limited appointment”
5 means an appointment under—

6 (A) subpart B of part 301 of title 5 of the
7 Code of Federal Regulations, as in effect on Jan-
8 uary 1, 2008; or

9 (B) any similar antecedent or succeeding
10 authority, as determined by the Commissioner.

11 **SEC. 2. AUTHORITY TO CONVERT CERTAIN OVERSEAS LIM-**
12 **ITED APPOINTMENTS TO PERMANENT AP-**
13 **POINTMENTS.**

14 (a) *IN GENERAL.*—Notwithstanding chapter 33 of title
15 5, United States Code, or any other provision of law relat-
16 ing to the examination, certification, and appointment of
17 individuals in the competitive service, the Commissioner
18 may convert an employee serving under an overseas limited
19 appointment within U.S. Customs and Border Protection
20 to a permanent appointment in the competitive service
21 within U.S. Customs and Border Protection, if—

22 (1) as of the time of conversion, the employee has
23 completed at least 2 years of current continuous serv-
24 ice under 1 or more overseas limited appointments;
25 and

1 (2) *the employee's performance has, throughout*
2 *the period of continuous service referred to in para-*
3 *graph (1), been rated at least fully successful or the*
4 *equivalent.*

5 *An employee whose appointment is converted under the pre-*
6 *ceding sentence acquires competitive status upon conver-*
7 *sion.*

8 (b) *INDEMNIFICATION AND PRIVILEGES.—*

9 (1) *INDEMNIFICATION.—The United States shall,*
10 *in the case of any individual whose appointment is*
11 *converted under subsection (a), indemnify and hold*
12 *such individual harmless from any claim arising*
13 *from any event, act, or omission—*

14 (A) *that arises from the exercise of such in-*
15 *dividual's official duties, including by reason of*
16 *such individual's residency status, in the foreign*
17 *country in which such individual resides at the*
18 *time of conversion;*

19 (B) *for which the individual would not have*
20 *been liable had the individual enjoyed the same*
21 *privileges and immunities in the foreign country*
22 *as an individual who either was a permanent*
23 *employee, or was not a permanent resident, in*
24 *the foreign country at the time of the event, act,*
25 *or omission involved; and*

1 (C) that occurs before, on, or after the date
2 of the enactment of this Act,
3 including any claim for taxes owed to the foreign
4 country or a subdivision thereof.

5 (2) *SERVICES AND PAYMENTS.*—

6 (A) *IN GENERAL.*—*In the case of any indi-*
7 *vidual whose appointment is converted under*
8 *subsection (a), the United States shall provide to*
9 *such individual (including any dependents) serv-*
10 *ices and monetary payments—*

11 (i) *equivalent to the services and mone-*
12 *tary payments provided to other U.S. Cus-*
13 *toms and Border Protection employees in*
14 *similar positions (and their dependents) in*
15 *the same country of assignment by inter-*
16 *national agreement, an exchange of notes, or*
17 *other diplomatic policy; and*

18 (ii) *for which such individual (includ-*
19 *ing any dependents) was not eligible by rea-*
20 *son of such individual's overseas limited ap-*
21 *pointment.*

22 (B) *APPLICABILITY.*—*Services and pay-*
23 *ments under this paragraph shall be provided to*
24 *an individual (including any dependents) to the*
25 *same extent and in the same manner as if such*

1 *individual had held a permanent appointment*
2 *in the competitive service throughout the period*
3 *described in subsection (a)(1).*

4 *(c) GUIDANCE ON IMPLEMENTATION.—The Commis-*
5 *sioner shall implement the conversion of an employee serv-*
6 *ing under an overseas limited appointment to a permanent*
7 *appointment in the competitive service in a manner that—*

8 *(1) meets the operational needs of the U.S. Cus-*
9 *toms and Border Protection; and*

10 *(2) to the greatest extent practicable, is not dis-*
11 *ruptive to the employees affected under this Act.*

12 **SEC. 3. RULE OF CONSTRUCTION.**

13 *Nothing in this Act shall be construed to affect the pay*
14 *of any individual for services performed by such individual*
15 *before the date of the conversion of such individual.*

16 **SEC. 4. TERMINATION.**

17 *The authority of the Commissioner to convert an em-*
18 *ployee serving under an overseas limited appointment with-*
19 *in U.S. Customs and Border Protection to a permanent ap-*
20 *pointment in the competitive service within U.S. Customs*

- 1 *and Border Protection shall terminate on the date that is*
- 2 *2 years after the date of the enactment of this Act.*

Attest:

Secretary.

11TH CONGRESS
2^D SESSION

H.R. 1517

AMENDMENT