

111TH CONGRESS
1ST SESSION

H. R. 1517

IN THE SENATE OF THE UNITED STATES

DECEMBER 16, 2009

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

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.

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. DEFINITIONS.**

4 For purposes of this Act—

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

7 (2) the term “U.S. Customs and Border Pro-
8 tection” means U.S. Customs and Border Protection
9 of the Department of Homeland Security;

10 (3) the term “competitive service” has the
11 meaning given such term by section 2102 of title 5,
12 United States Code; and

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

15 (A) subpart B of part 301 of title 5 of the
16 Code of Federal Regulations, as in effect on
17 January 1, 2008; or

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

20 **SEC. 2. AUTHORITY TO CONVERT CERTAIN OVERSEAS LIM-**
21 **ITED APPOINTMENTS TO PERMANENT AP-**
22 **POINTMENTS.**

23 (a) IN GENERAL.—Notwithstanding chapter 33 of
24 title 5, United States Code, or any other provision of law
25 relating to the examination, certification, and appointment

1 of individuals in the competitive service, the Commissioner
2 may convert an employee serving under an overseas lim-
3 ited appointment within U.S. Customs and Border Protec-
4 tion to a permanent appointment in the competitive serv-
5 ice within U.S. Customs and Border Protection, if—

6 (1) as of the time of conversion, the employee
7 has completed at least 2 years of current continuous
8 service under 1 or more overseas limited appoint-
9 ments; and

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

14 An employee whose appointment is converted under the
15 preceding sentence acquires competitive status upon con-
16 version.

17 (b) INDEMNIFICATION AND PRIVILEGES.—

18 (1) INDEMNIFICATION.—The United States
19 shall, in the case of any individual whose appoint-
20 ment is converted under subsection (a), indemnify
21 and hold such individual harmless from any claim
22 arising from any event, act, or omission—

23 (A) that arises from the exercise of such
24 individual's official duties, including by reason
25 of such individual's residency status, in the for-

1 eign country in which such individual resides at
2 the time of conversion;

3 (B) for which the individual would not
4 have been liable had the individual enjoyed the
5 same privileges and immunities in the foreign
6 country as an individual who either was a per-
7 manent employee, or was not a permanent resi-
8 dent, in the foreign country at the time of the
9 event, act, or omission involved; and

10 (C) that occurs before, on, or after the
11 date of the enactment of this Act,
12 including any claim for taxes owed to the foreign
13 country or a subdivision thereof.

14 (2) SERVICES AND PAYMENTS.—

15 (A) IN GENERAL.—In the case of any indi-
16 vidual whose appointment is converted under
17 subsection (a), the United States shall provide
18 to such individual (including any dependents)
19 services and monetary payments—

20 (i) equivalent to the services and mon-
21 etary payments provided to other Customs
22 and Border Protection employees in similar
23 positions (and their dependents) in the
24 same country of assignment by inter-

1 national agreement, an exchange of notes,
2 or other diplomatic policy; and

3 (ii) for which such individual (includ-
4 ing any dependents) was not eligible by
5 reason of such individual's overseas limited
6 appointment.

7 (B) APPLICABILITY.—Services and pay-
8 ments under this paragraph shall be provided to
9 an individual (including any dependents) to the
10 same extent and in the same manner as if such
11 individual had held a permanent appointment in
12 the competitive service throughout the period
13 described in subsection (a)(1). The preceding
14 sentence shall, in the case of any individual, be
15 effective as of the first day of the period de-
16 scribed in subsection (a)(1) with respect to such
17 individual.

18 (c) GUIDANCE ON IMPLEMENTATION.—The Commis-
19 sioner shall implement the conversion of an employee serv-
20 ing under an overseas limited appointment to a permanent
21 appointment in the competitive service in a manner that—

22 (1) meets the operational needs of the U.S.
23 Customs and Border Protection; and

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

Passed the House of Representatives December 15,
2009.

Attest: LORRAINE C. MILLER,
Clerk.