

Calendar No. 271

115TH CONGRESS
1ST SESSION**S. 1886****[Report No. 115–189]**

To amend subchapter I of chapter 31 of title 5, United States Code, to authorize agencies to make noncompetitive temporary and term appointments in the competitive service.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2017

Mr. LANKFORD introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

DECEMBER 1, 2017

Reported by Mr. JOHNSON, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend subchapter I of chapter 31 of title 5, United States Code, to authorize agencies to make noncompetitive temporary and term appointments 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Temporary and Term
3 Appointments Act of 2017”.

4 **SEC. 2. NONCOMPETITIVE TEMPORARY AND TERM AP-**
5 **POINTMENTS IN THE COMPETITIVE SERVICE.**

6 (a) TEMPORARY AND TERM APPOINTMENTS.—Sub-
7 chapter I of chapter 31 of title 5, United States Code,
8 is amended by adding at the end the following:

9 **“§ 3115. Temporary and term appointments**

10 **“(a) DEFINITIONS.—In this section:**

11 **“(1) DIRECTOR.—The term ‘Director’ means**
12 **the Director of the Office of Personnel Management.**

13 **“(2) TEMPORARY APPOINTMENT.—The term**
14 **‘temporary appointment’ means an appointment in**
15 **the competitive service for a period of not more than**
16 **1 year.**

17 **“(3) TERM APPOINTMENT.—The term ‘term**
18 **appointment’ means an appointment in the competi-**
19 **tive service for a period of more than 1 year and not**
20 **more than 5 years.**

21 **“(b) APPOINTMENT.—**

22 **“(1) IN GENERAL.—The head of an agency may**
23 **make a temporary appointment or term appointment**
24 **to a position in the competitive service when the**
25 **need for the services of the employee is not perma-**
26 **nent.**

1 “(2) EXTENSION.—Under conditions prescribed
2 by the Director, the head of an agency may—

3 “(A) extend a temporary appointment
4 made under paragraph (1) to be for a period of
5 not more than 2 years; and

6 “(B) extend a term appointment made
7 under paragraph (1) to be for a period of not
8 more than 5 years.

9 “(c) APPOINTMENTS FOR CRITICAL HIRING
10 NEEDS.—Under conditions prescribed by the Director, the
11 head of an agency may make a noncompetitive temporary
12 appointment, or a noncompetitive term appointment for
13 a period of not more than 18 months, to a position in
14 the competitive service for which a critical hiring need ex-
15 ists, without regard to the requirements of sections 3327
16 and 3330. An appointment made under this subsection
17 may not be extended.

18 “(d) REGULATIONS.—The Director may prescribe
19 regulations to carry out this section, but is not required
20 to promulgate regulations prior to implementation of this
21 section.

22 “(e) SPECIAL PROVISION REGARDING THE DEPART-
23 MENT OF DEFENSE.—Nothing in this section shall pre-
24 clude the Secretary of Defense from making temporary
25 and term appointments in the competitive service pursu-

ant to section 1105 of the National Defense Authorization Act for Fiscal Year 2017 (10 U.S.C. note prec. 1580; Public Law 114-328; 130 Stat. 2447), and any regulations prescribed by the Director for the administration of this section shall not apply to the Secretary of Defense in the exercise of the authorities granted under such section 1105.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 5, United States Code, is amended by inserting after the item relating to section 3114 the following:

“3115. Temporary and term appointments.”.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Temporary and Term Appointments Act of 2017”.

SEC. 2. NONCOMPETITIVE TEMPORARY AND TERM APPOINTMENTS IN THE COMPETITIVE SERVICE.

(a) TEMPORARY AND TERM APPOINTMENTS.—Subchapter I of chapter 31 of title 5, United States Code, is amended by adding at the end the following:

“§3115. Temporary and term appointments

“(a) DEFINITIONS.—In this section:

“(1) DIRECTOR.—The term ‘Director’ means the Director of the Office of Personnel Management.

“(2) TEMPORARY APPOINTMENT.—The term ‘temporary appointment’ means an appointment in

1 *the competitive service for a period of not more than*
2 *1 year.*

3 “(3) *TERM APPOINTMENT.*—*The term ‘term ap-*
4 *pointment’ means an appointment in the competitive*
5 *service for a period of more than 1 year and not more*
6 *than 5 years.*

7 “(b) *APPOINTMENT.*—

8 “(1) *IN GENERAL.*—*The head of an agency may*
9 *make a temporary appointment or term appointment*
10 *to a position in the competitive service when the need*
11 *for the services of the employee services is not perma-*
12 *nent.*

13 “(2) *EXTENSION.*—*Under conditions prescribed*
14 *by the Director, the head of an agency may—*

15 “(A) *extend a temporary appointment made*
16 *under paragraph (1) in increments of not more*
17 *than 1 year, up to a maximum of 3 total years*
18 *of service; and*

19 “(B) *extend a term appointment made*
20 *under paragraph (1) in increments determined*
21 *appropriate by the head of the agency, up to a*
22 *maximum of 6 total years of service.*

23 “(c) *APPOINTMENTS FOR CRITICAL HIRING NEEDS.*—
24 *Under conditions prescribed by the Director, the head of*
25 *an agency may make a noncompetitive temporary appoint-*

1 *ment, or a noncompetitive term appointment for a period*
 2 *of not more than 18 months, to a position in the competitive*
 3 *service for which a critical hiring need exists, without re-*
 4 *gard to the requirements of sections 3327 and 3330. An ap-*
 5 *pointment made under this subsection may not be extended.*

6 “(d) *REGULATIONS.—The Director may prescribe reg-*
 7 *ulations to carry out this section, but is not required to*
 8 *promulgate regulations prior to implementation of this sec-*
 9 *tion.*

10 “(e) *SPECIAL PROVISION REGARDING THE DEPART-*
 11 *MENT OF DEFENSE.—Nothing in this section shall preclude*
 12 *the Secretary of Defense from making temporary and term*
 13 *appointments in the competitive service pursuant to section*
 14 *1105 of the National Defense Authorization Act for Fiscal*
 15 *Year 2017 (10 U.S.C. note prec. 1580; Public Law 114–*
 16 *328; 130 Stat. 2447), and any regulations prescribed by*
 17 *the Director for the administration of this section shall not*
 18 *apply to the Secretary of Defense in the exercise of the au-*
 19 *thorities granted under such section 1105.”.*

20 “(b) *CLERICAL AMENDMENT.—The table of sections for*
 21 *chapter 31 of title 5, United States Code, is amended by*
 22 *inserting after the item relating to section 3114 the fol-*
 23 *lowing:*

“3115. Temporary and term appointments.”.

Calendar No. 271

115TH CONGRESS
1ST Session

S. 1886

[Report No. 115–189]

A BILL

To amend subchapter I of chapter 31 of title 5, United States Code, to authorize agencies to make noncompetitive temporary and term appointments in the competitive service.

DECEMBER 1, 2017

Reported with an amendment