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(Original Signature of Member)

116TH CONGRESS  
1ST SESSION

**H. R.**

To restore administrative law judges to the competitive service, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. CUMMINGS (for himself, Mr. FITZPATRICK, Mr. NEAL, Mr. RODNEY DAVIS of Illinois, Mr. CONNOLLY, Mr. DANNY K. DAVIS of Illinois, Mr. SCOTT of Virginia, Mr. LARSON of Connecticut, and Mr. COLE) introduced the following bill; which was referred to the Committee on

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**A BILL**

To restore administrative law judges to the competitive service, 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.**

4 This Act may be cited as the “ALJ Competitive Serv-  
5 ice Restoration Act”.

1 **SEC. 2. APPOINTMENT OF ADMINISTRATIVE LAW JUDGES.**

2 (a) IN GENERAL.—Section 3105 of title 5, United  
3 States Code is amended to read as follows:

4 **“§ 3105. Appointment of administrative law judges**

5 “(a) APPOINTMENT.—

6 “(1) AUTHORITY.—The head of each Executive  
7 department and agency shall appoint as many ad-  
8 ministrative law judges as are necessary for pro-  
9 ceedings required to be conducted in accordance with  
10 sections 556 and 557.

11 “(2) SELECTION; EXAMINATION.—Administra-  
12 tive law judges shall be appointed by the head of an  
13 Executive department or an agency from a list of eli-  
14 gible candidates provided by the Office of Personnel  
15 Management based upon successful examination and  
16 approval of the qualifications of the individual by the  
17 Office.

18 “(b) MINIMUM QUALIFICATIONS AND CONDITIONS  
19 OF EMPLOYMENT.—

20 “(1) LICENSURE.—At the time of application  
21 for a position and while serving as an administrative  
22 law judge, the individual must possess a professional  
23 license to practice law under the laws of a State, the  
24 District of Columbia, the Commonwealth of Puerto  
25 Rico, or any territorial court.

1           “(2) QUALIFYING EXPERIENCE.—To be eligible  
2           to serve as an administrative law judge, an indi-  
3           vidual shall have not less than 7 years of experience  
4           as a licensed attorney litigating or adjudicating for-  
5           mal hearings or trials involving civil, criminal, or ad-  
6           ministrative law at the Federal, State, or local level.

7           “(c) COMPETITIVE SERVICE.—Administrative law  
8           judge positions shall be positions in the competitive serv-  
9           ice.

10          “(d) ASSIGNMENT.—Administrative law judges shall  
11          be assigned to cases in rotation as far as practicable, and  
12          may not perform duties inconsistent with their duties and  
13          responsibilities as administrative law judges.

14          “(e) AUTHORITY AND ROLE OF ADMINISTRATIVE  
15          LAW JUDGES IN RELATION TO EXECUTIVE DEPARTMENT  
16          OR AGENCY HEADS.—

17                 “(1) CHIEF ALJ.—A chief administrative law  
18                 judge shall report directly to the head of the Execu-  
19                 tive department or agency at which the chief is ap-  
20                 pointed.

21                 “(2) ALJ.—An administrative law judge (in  
22                 this paragraph referred to as an ‘ALJ’) shall report  
23                 directly to the chief administrative law judge (if any)  
24                 of the Executive department or agency at which the  
25                 ALJ is appointed. If there is no chief administrative

1 law judge, the ALJ shall report directly to the head  
2 of such Executive department or agency.

3 “(3) CLARIFICATION.—Nothing in this sub-  
4 section shall be construed to limit or otherwise miti-  
5 gate the ability or independence of an administrative  
6 law judge in carrying out his or her duties and re-  
7 sponsibilities as an administrative law judge.”.

8 (b) EXEMPTION FROM PROBATIONARY PERIOD.—  
9 Section 3321(c) of title 5, United States Code, is amended  
10 to read as follows:

11 “(c) Subsections (a) and (b) of this section shall not  
12 apply with respect to appointments in the Senior Execu-  
13 tive Service, the Federal Bureau of Investigation and  
14 Drug Enforcement Administration Senior Executive Serv-  
15 ice, any individual covered by section 1599e of title 10,  
16 or any individual appointed to an administrative law judge  
17 position.”.

18 (c) CLARIFICATION OF APPLICATION OF DISCIPLI-  
19 NARY PROCEDURES.—Notwithstanding the amendments  
20 made by this Act that classify administrative law judges  
21 within the competitive service, an administrative law judge  
22 shall not be subject to subchapter I or II of chapter 75  
23 of title 5, United States Code, and shall be subject to the  
24 requirements of subchapter III of such chapter.

1           (d) CONVERSION OF POSITIONS.—With respect to  
2 any individual serving on the date of the enactment of this  
3 Act in an excepted service position as an administrative  
4 law judge appointed under section 3105 of title 5, United  
5 States Code, as in effect on the day before the date of  
6 the enactment of this Act, not later than 30 days after  
7 such date of enactment, the head of an Executive depart-  
8 ment or the agency employing the administrative law  
9 judge shall convert the appointment to a permanent ap-  
10 pointment in the competitive service in the agency.