H. R. ______

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

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

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”.

SEC. 2. APPOINTMENT OF ADMINISTRATIVE LAW JUDGES.

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

“§ 3105. Appointment of administrative law judges

“(a) APPOINTMENT.—

“(1) AUTHORITY.—The head of each Executive department and agency shall appoint as many administrative law judges as are necessary for proceedings required to be conducted in accordance with sections 556 and 557.

“(2) SELECTION; EXAMINATION.—Administrative law judges shall be appointed by the head of an Executive department or an agency from a list of eligible candidates provided by the Office of Personnel Management based upon successful examination and approval of the qualifications of the individual by the Office.

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

“(1) LICENSURE.—At the time of application for a position and while serving as an administrative law judge, the individual must possess a professional license to practice law under the laws of a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territorial court.
“(2) QUALIFYING EXPERIENCE.—To be eligible to serve as an administrative law judge, an individual shall have not less than 7 years of experience as a licensed attorney litigating or adjudicating formal hearings or trials involving civil, criminal, or administrative law at the Federal, State, or local level.

“(c) COMPETITIVE SERVICE.—Administrative law judge positions shall be positions in the competitive service.

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

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

“(1) CHIEF ALJ.—A chief administrative law judge shall report directly to the head of the Executive department or agency at which the chief is appointed.

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

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

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

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

(e) CLARIFICATION OF APPLICATION OF DISCIPLI-
NARY PROCEDURES.—Notwithstanding the amendments
made by this Act that classify administrative law judges
within the competitive service, an administrative law judge
shall not be subject to subchapter I or II of chapter 75
of title 5, United States Code, and shall be subject to the
requirements of subchapter III of such chapter.
(d) CONVERSION OF POSITIONS.—With respect to any individual serving on the date of the enactment of this Act in an excepted service position as an administrative law judge appointed under section 3105 of title 5, United States Code, as in effect on the day before the date of the enactment of this Act, not later than 30 days after such date of enactment, the head of an Executive department or the agency employing the administrative law judge shall convert the appointment to a permanent appointment in the competitive service in the agency.