

AMENDMENT TO RULES COMMITTEE PRINT
118-36
OFFERED BY MR. CONNOLLY OF VIRGINIA

Add at the end of title XI of division A the following:

1 **SEC. 11__.** **LIMITATIONS ON EXCEPTING POSITIONS FROM**
2 **COMPETITIVE SERVICE AND TRANSFERRING**
3 **POSITIONS.**

4 (a) **IN GENERAL.**—A position in the competitive serv-
5 ice may not be excepted from the competitive service un-
6 less such position is placed—

7 (1) in any of the schedules A through E as de-
8 scribed in section 6.2 of title 5, Code of Federal
9 Regulations, as in effect on September 30, 2020;
10 and

11 (2) under the terms and conditions under part
12 6 of such title as in effect on such date.

13 (b) **TRANSFERS.**—

14 (1) **WITHIN EXCEPTED SERVICE.**—A position in
15 the excepted service may not be transferred to any
16 schedule other than a schedule described in sub-
17 section (a)(1).

1 (2) OPM CONSENT REQUIRED.—An agency
2 may not transfer any occupied position from the
3 competitive service or excepted service into schedule
4 C of subpart C of part 213 of title 5, Code of Fed-
5 eral Regulations, without the prior consent of the
6 Director of the Office of Personnel Management.

7 (3) LIMIT DURING PRESIDENTIAL TERM.—Dur-
8 ing any four-year presidential term, an agency may
9 not transfer from the competitive service into the ex-
10 cepted service a total number of employees that is
11 more than one percent of the total number of em-
12 ployees at such agency as of the first day of such
13 term, or five employees, whichever is greater.

14 (4) EMPLOYEE CONSENT REQUIRED.—Notwith-
15 standing any other provision of this section—

16 (A) an employee who occupies a position in
17 the excepted service may not be transferred to
18 an excepted service schedule other than the
19 schedule such position is located without the
20 prior written consent of the employee; and

21 (B) an employee who occupies a position in
22 the competitive service may not be transferred
23 to the excepted service without the employee's
24 prior written consent.

25 (c) OTHER MATTERS.—

1 (1) APPLICATION.—Notwithstanding section
2 7425(b) of title 38, United States Code, this section
3 shall apply to positions under chapter 73 or 74 of
4 such title.

5 (2) REPORT.—Not later than March 15 of each
6 calendar year, the Director shall submit to Congress
7 a report on the immediately preceding calendar year
8 that lists—

9 (A) each position that was transferred in
10 such year from the competitive service to the
11 excepted service and a justification as to why
12 each position was so transferred; and

13 (B) any violation of this section occurring
14 during such year.

15 (3) REGULATIONS.—The Director shall issue
16 regulations to implement this section.

17 (d) DEFINITIONS.—In this section—

18 (1) the term “agency” means any department,
19 agency, or instrumentality of the Federal Govern-
20 ment;

21 (2) the term “competitive service” has the
22 meaning given that term in section 2102 of title 5,
23 United States Code;

24 (3) the term “Director” means the Director of
25 the Office of Personnel Management; and

1 (4) the term “excepted service” has the mean-
2 ing given that term in section 2103 of title 5, United
3 States Code.

