

AMENDMENT TO RULES COMMITTEE PRINT 116-

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OFFERED BY MR. CONNOLLY OF VIRGINIA

At the end of subtitle A of title XI, add the following:

1 **SEC. 1111. APPOINTMENT OF ADMINISTRATIVE LAW**
2 **JUDGES.**

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

5 **“§ 3105. Appointment of administrative law judges**

6 “(a) APPOINTMENT.—

7 “(1) AUTHORITY.—The head of each Executive
8 agency shall appoint as many administrative law
9 judges as are necessary for proceedings required to
10 be conducted in accordance with sections 556 and
11 557.

12 “(2) SELECTION; EXAMINATION.—Administra-
13 tive law judges shall be appointed by the head of an
14 Executive agency from a list of eligible candidates
15 provided by the Office of Personnel Management
16 based upon successful examination and approval of
17 the qualifications, including any reasonable subject

1 matter expertise that the appointing agency re-
2 quests, of the individual by the Office.

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

5 “(1) LICENSURE.—At the time of application
6 for a position as an administrative law judge, the in-
7 dividual must possess a professional license to prac-
8 tice law under the laws of a State, the District of
9 Columbia, the Commonwealth of Puerto Rico, or any
10 territorial court.

11 “(2) QUALIFYING EXPERIENCE.—

12 “(A) To be eligible to serve as an adminis-
13 trative law judge, an individual shall have not
14 less than 7 years of experience as a licensed at-
15 torney preparing for, litigating, or adjudicating
16 formal hearings or trials involving civil, crimi-
17 nal, or administrative law at the Federal, State,
18 or local level.

19 “(B) The Office shall periodically examine
20 and evaluate the effectiveness of the qualifying
21 experience standards for administrative law
22 judges and, if necessary, make changes to im-
23 prove the quality of candidates eligible for hir-
24 ing by Executive departments and agencies.

1 “(c) COMPETITIVE SERVICE.—Administrative law
2 judge positions shall be positions in the competitive serv-
3 ice.

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

8 “(e) AUTHORITY AND ROLE OF ADMINISTRATIVE
9 LAW JUDGES IN RELATION TO EXECUTIVE AGENCY
10 HEADS.—

11 “(1) CHIEF ALJ.—A Chief administrative law
12 judge shall report directly to the head of the Execu-
13 tive agency at which the chief is appointed.

14 “(2) ALJ.—An administrative law judge (in
15 this paragraph referred to as an ‘ALJ’) shall report
16 directly to the chief administrative law judge (if any)
17 of the Executive agency at which the ALJ is ap-
18 pointed. If there is no chief administrative law
19 judge, the ALJ shall report directly to the head of
20 such Executive agency.

21 “(3) CLARIFICATION.—Nothing in this sub-
22 section shall be construed to limit or otherwise miti-
23 gate the impartiality or judicial independence of an
24 administrative law judge.”.

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

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

11 (c) CLARIFICATION OF APPLICATION OF DISCIPLI-
12 NARY PROCEDURES.—Notwithstanding the amendments
13 made by this section that classify administrative law
14 judges within the competitive service, an administrative
15 law judge shall not be subject to subchapter I or II of
16 chapter 75 of title 5, United States Code, and shall be
17 subject to the requirements of subchapter III of such
18 chapter.

19 (d) CONVERSION OF POSITIONS.—With respect to
20 any individual serving on the date of the enactment of this
21 Act in an excepted service position as an administrative
22 law judge appointed under section 3105 of title 5, United
23 States Code, as in effect on the day before the date of
24 the enactment of this Act, not later than 30 days after
25 such date of enactment, the head of an Executive agency

1 employing the administrative law judge shall deem such
2 individual to have successfully passed the required com-
3 petitive examination and convert the appointment to a per-
4 manent appointment in the competitive service in the
5 agency.

