

103D CONGRESS
1ST SESSION

H. R. 1226

To provide for the establishment of a Professional Trade Service Corps,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1993

Ms. KAPTUR introduced the following bill; which was referred jointly to the Committees on Ways and Means, Post Office and Civil Service, and the Judiciary

A BILL

To provide for the establishment of a Professional Trade Service Corps, and for other purposes.

1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (A) SHORT TITLE.—This Act may be cited as the
5 “Professional Trade Service Corps Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

8 TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

TITLE I—THE PROFESSIONAL TRADE SERVICE CORPS

Sec. 101. Definitions; references.
Sec. 102. Establishment.
Sec. 103. Tier I.
Sec. 104. Tier II.
Sec. 105. The Councils.
Sec. 106. Rights of former members.
Sec. 107. Effective date.

TITLE II—THE TRADE SERVICE INSTITUTE

Sec. 201. Establishment.
Sec. 202. Director of the Trade Service Institute.
Sec. 203. Staff.
Sec. 204. Acquisition of property.
Sec. 205. Service agreements.

TITLE III—POSTEMPLOYMENT RESTRICTIONS

Sec. 301. Postemployment restrictions.
Sec. 302. Effective date.

TITLE I—THE PROFESSIONAL TRADE SERVICE CORPS

SEC. 101. DEFINITIONS; REFERENCES.

(a) DEFINITIONS.—For the purpose of this Act—
 (1) the term “trade-related agency” means—
 (A) the Office of the United States Trade Representative;
 (B) each office or other unit within the Department of State under the Under Secretary for Economic and Agricultural Affairs;
 (C) the Department of Commerce, excluding the Bureau of the Census;
 (D) the Foreign Agricultural Service of the Department of Agriculture;
 (E) the Bureau of International Labor Affairs of the Department of Labor; and

(F) each office or other unit within the Department of the Treasury under—

5 (ii) the Deputy Assistant Secretary
6 for Regulatory, Tariff and Trade Enforce-
7 ment;

(3) the term "Tier I" means Tier I of the Corps, as described in section 103;

12 (4) the term “Tier II” means Tier II of the
13 Corps, as described in section 104;

(B) has not had such certification terminated under section 103(f) or otherwise;

22 (6) the term "member of the Corps" means any
23 individual who—

(A) is a certified member of Tier I; or

(B) holds a position in Tier II (excluding any individual under subparagraph (A));

(7) the term "Institute" means the Trade Service Institute, as described in title II;

(9) the term "Career Council" means the Career Trade Service Interagency Council referred to in section 105(a)(2);

(11) the term “Director of the Institute” or
“Director” means the Director of the Trade Service
Institute under section 202.

16 (b) REFERENCES.—A reference in this Act to—

17 (1) a position in grade GS-13, 14, or 15 of the
18 General Schedule shall be considered to include a
19 position subject to chapter 54 of title 5, United
20 States Code (relating to the performance manage-
21 ment and recognition system), or a comparable sys-
22 tem; and

1 corresponding grade of the Foreign Service Schedule
2 as determined under regulations prescribed by
3 the member of the Policy Council under section
4 105(a)(1)(B).

5 **SEC. 102. ESTABLISHMENT.**

6 (a) IN GENERAL.—There shall be established within
7 the trade-related agencies a Professional Trade Service
8 Corps, which shall consist of 2 tiers as described in sec-
9 tions 103 and 104, respectively.

10 (b) REGULATIONS.—The Career Council shall, in ac-
11 cordance with applicable provisions of this title, prescribe
12 regulations relating to any procedures, criteria, or other
13 matters (excluding any matter as to which any other en-
14 tity or individual is permitted or required to prescribe reg-
15 ulations under this title) which may be necessary to carry
16 out this title.

17 **SEC. 103. TIER I.**

18 (a) ELIGIBILITY.—To be eligible to become a can-
19 didate for Tier I, an individual must, as of the time of
20 application—

21 (1) hold a position, in a trade-related agency, in
22 grade GS-12, 13, 14, or 15 of the General Schedule;

23 (2) have, in the aggregate, at least—

24 (A) 2 years of service in 1 or more of the
25 trade-related agencies;

(B) 2 years of comparable experience, as a
Government employee, outside of the trade-related agencies; or

4 (C) any combination of service or experi-
5 ence, as described in subparagraphs (A) and
6 (B), respectively, totalling at least 2 years; and

7 (3) demonstrate—

(A) substantive knowledge of trade policy
or trade negotiations;

(B) aptitude for analytical thinking;

(C) effective written and oral communication skills; and

16 (b) ACADEMIC REQUIREMENTS.—(1) Any individual
17 who is accepted as a candidate for Tier I shall be required
18 to pursue, concurrent with service in such individual's reg-
19 ular position in a trade-related agency or while fulfilling
20 the rotational requirement under subsection (c), a com-
21 prehensive program of study at the Institute.

22 (2) The purpose of the program of study shall be to
23 ensure that members of the Corps are well-informed with
24 respect to current trends as well as the history of trade
25 negotiations, aware of the economic and political consider-

1 actions relevant to trade negotiations, knowledgeable of the
2 affairs, cultures, and languages of other countries, and
3 otherwise well prepared to represent the interests of the
4 United States in trade negotiations, or to carry out Gov-
5 ernment functions relating thereto.

6 (3) To carry out the purpose described in paragraph
7 (2), the Director of the Institute, in consultation with the
8 Career Council and the Policy Council, shall develop the
9 course requirements for candidates for Tier I. At a mini-
10 mum, the program shall include courses relating to—

11 (A) the history of, and current trends in, trade
12 negotiations of the United States;

13 (B) trade-negotiation strategies;

14 (C) the economics and politics of trade;

15 (D) cultural and business practices of countries
16 with which the United States has significant trade
17 relations;

18 (E) foreign languages; and

19 (F) operations within and interrelationships
20 among the various trade-related agencies.

21 (c) ROTATIONAL REQUIREMENT.—(1) In order to af-
22 ford the opportunity to acquire direct experience relating
23 to the matter described in subsection (b)(3)(F) and other-
24 wise develop the qualities referred to in subsection

1 (a)(3)(D), candidates for Tier I shall be required to com-
2 plete at least 1 tour of duty either—

3 (A) by detail or temporary reassignment, as the
4 case may be, to—

5 (i) a position within another trade-related
6 agency; or

7 (ii) a Government position outside of the
8 trade-related agencies; or

9 (B) by temporary assignment to a position out-
10 side the Government.

11 (2) Selections under this subsection shall, to the max-
12 imum extent practicable, take into account the interests
13 and abilities of the individual involved, as well as the needs
14 of the Government.

15 (3) A tour of duty under this subsection shall last
16 at least 12 months.

17 (4)(A) The provisions of section 3373 of title 5, Unit-
18 ed States Code, relating to the continuation of level of pay,
19 benefits, and status, shall apply with respect to any em-
20 ployee assigned to a position outside the Government, pur-
21 suant to paragraph (1)(B), in the same way as if it were
22 a position to which such provisions would otherwise apply.

23 (B) The Office of Personnel Management shall pre-
24 scribe any regulations necessary to carry out this para-
25 graph.

1 (d) CERTIFICATION.—To become a certified member
2 of Tier I, an individual must—

3 (1) successfully complete the academic require-
4 ments under subsection (b) in accordance with such
5 timetable as the Director shall establish (such time-
6 table to permit such longer periods of time as the
7 Director may consider necessary based on an indi-
8 vidual's grade level at time of entry and other rel-
9 evant factors);

10 (2) successfully complete the rotational require-
11 ment under subsection (c) within such time as the
12 Director may require; and

13 (3) receive performance evaluations indicating
14 at least a fully successful level of competence
15 throughout the period while completing the require-
16 ments of the program.

17 (e) RIGHTS BASED ON CERTIFICATION.—A certified
18 member of Tier I—

19 (1) may be appointed to a position in Tier II,
20 if otherwise qualified for such position;

21 (2) shall be eligible for advanced courses and
22 continuing education through the Institute; and

23 (3) shall be eligible for such other forms of
24 training (including preferential consideration, con-
25 sistent with otherwise applicable provisions of law,

1 for additional rotations) as the trade-related agen-
2 cies may provide, in accordance with guidelines es-
3 tablished by the Policy Council.

4 (f) PERIODIC RECERTIFICATION.—(1) In order to en-
5 sure that certified members of Tier I maintain the level
6 of excellence necessary to carry out the purposes of this
7 Act, each such member shall be subject to such periodic
8 recertification requirements as the Career Council shall by
9 regulation prescribe.

10 (2) Paragraph (1) shall not apply with respect to any
11 individual holding a position within Tier II.

12 **SEC. 104. TIER II.**

13 (a) IN GENERAL.—Tier II shall consist of the follow-
14 ing positions:

15 (1) Within the trade-related agency described in
16 section 101(a)(1)(A):

17 (A) 1 of the Deputy United States Trade
18 Representative positions (as designated by the
19 United States Trade Representative).

20 (B) Assistant United States Trade Rep-
21 resentative.

22 (C) Deputy Assistant United States Trade
23 Representative.

24 (D) Deputy General Counsel.

25 (E) Associate General Counsel.

1 (2) Within the trade-related agency described in
2 section 101(a)(1)(B):

3 (A) Deputy Assistant Secretaries under the
4 Under Secretary of State for Economic and Ag-
5 ricultural Affairs.

6 (3) Within the trade-related agencies described
7 in section 101(a)(1)(C):

8 (A) Deputy Assistant Secretaries.

9 (B) Office Directors.

10 (4) Within the trade-related agency described in
11 section 101(a)(1)(D):

12 (A) Associate Administrator for Trade Pol-
13 icy and Agricultural Affairs.

14 (B) Assistant Administrator for Foreign
15 Agricultural Affairs.

16 (C) Deputy Assistant Administrator.

17 (D) Area Officer Positions.

18 (5) Within the trade-related agency described in
19 section 101(a)(1)(E):

20 (A) Deputy Under Secretary.

21 (B) Associate Deputy Under Secretary.

22 (C) Office Directors.

23 (6) Within the trade-related agency described in
24 section 101(a)(1)(F):

1 (A) Deputy Assistant Secretary for Regu-
2 latory, Tariff and Trade Enforcement.

3 (B) Director, Office of Trade and Tariff
4 Affairs.

5 (C) Deputy Assistant Secretary for Trade
6 and Investment Policy.

7 (D) Director of the Office of International
8 Investment.

9 (E) Director of the Office of International
10 Trade.

11 (b) RESERVATION OF POSITIONS.—Except as pro-
12 vided in subsection (c) of this section or section 107(b)
13 of this Act, positions within Tier II may not be filled by
14 any individual other than—

15 (1) a certified member of Tier I;

16 (2) an individual who, immediately before ap-
17 pointment to or placement in the position involved,
18 holds a position in Tier II; or

19 (3) an individual who is able to demonstrate, by
20 meeting such academic and other requirements as
21 the Career Council establishes, at least the minimum
22 level of training and expertise possessed by an indi-
23 vidual described in paragraph (1) or (2).

24 (c) WAIVER AUTHORITY.—(1) The appropriate mem-
25 ber of the Policy Council (as defined in paragraph (3))

1 may waive the application of subsection (b) with respect
2 to a position within such member's agency if, in accord-
3 ance with guidelines which the Policy Council shall pre-
4 scribe, such member determines such waiver to be nec-
5 essary due to the unavailability of any candidate who sat-
6 isfies such subsection.

7 (2) Under the guidelines, a waiver under this sub-
8 section shall remain in effect for no longer than necessary
9 to permit the appointment of a qualified candidate who
10 satisfies subsection (b).

11 (3) For the purpose of this subsection, the appro-
12 priate member of the Policy Council for the trade-related
13 agency under subparagraph (A), (B), (C), (D), (E), or (F)
14 of section 101(a)(1), is the member specified in the cor-
15 responding subparagraph of section 105(a)(1).

16 **SEC. 105. THE COUNCILS.**

17 (a) IN GENERAL.—In order to carry out this Act,
18 there shall be established—

19 (1) a Policy Trade Service Interagency Council,
20 which shall consist of—

21 (A) the United States Trade Representa-
22 tive (or the Trade Representative's delegate);
23 (B) the Secretary of State (or the Sec-
24 retary's delegate);

(C) the Secretary of Commerce (or the
Secretary's delegate);

(2) a Career Trade Service Interagency Council, consisting of 6 members, who shall be appointed in accordance with subsection (b).

12 (b) APPOINTMENTS TO THE CAREER COUNCIL.—(1)

13 Each member of the Policy Council shall appoint 1 mem-
14 ber of the Career Council.

15 (2) Only members of the Corps shall be eligible to
16 serve on the Career Council.

17 (3) A vacancy in the Career Council shall be filled
18 in the manner in which the original appointment was
19 made.

20 (4) The term of appointment for a member of the
21 Career Council shall be 1 year, except that any individual
22 appointed to fill a vacancy occurring prior to the expira-
23 tion of the term for which such member's predecessor was
24 appointed may serve only for the remainder of such term,
25 subject to paragraph (5).

1 (5) A member may serve after the expiration of such
2 member's term until a successor has taken office.

3 (6) Nothing in this subsection shall prevent an individual
4 from being appointed to the Career Council more
5 than once.

6 (c) PAY.—Members of the Policy Council and members
7 of the Career Council shall receive no additional pay
8 on account of their service on the Policy Council or the
9 Career Council, as the case may be.

10 **SEC. 106. RIGHTS OF FORMER MEMBERS.**

11 Any individual who is involuntarily separated from
12 the Corps (except for failure to be recertified under 102(f)
13 or otherwise for cause) shall—

14 (1) consistent with otherwise applicable provisions
15 of law, and upon appropriate application, be
16 restored at the earliest date possible to such individual's
17 former position or another position in the
18 Corps which is commensurate with the individual's
19 training and background; and

20 (2) for purposes of any determination of eligibility
21 for a position within Tier II, continue to be
22 treated, during the 12-month period beginning on
23 the date of separation, as a certified member of Tier
24 I.

1 **SEC. 107. EFFECTIVE DATE.**

2 (a) IN GENERAL.—Except as provided in subsection
3 (b), this title and the amendments made by this title shall
4 take effect on the first day of the first fiscal year begin-
5 ning after the date of enactment of this Act.

6 (b) EXCEPTIONS.—(1) The provisions of sections
7 104(b) (relating to eligibility for appointment to a position
8 within Tier II) and 105(b)(2) (relating to eligibility for
9 appointment as a member of the Career Council) shall
10 apply with respect to appointments taking effect after the
11 end of the 5-year period beginning on the effective date
12 of this title (as specified in subsection (a)).

13 (2) Any individual who, immediately before the end
14 of the 5-year period referred to in paragraph (1), holds
15 a position which is to become a part of Tier II, shall not
16 be eligible to continue in such position after the end of
17 such period—

18 (A) unless such individual is determined, within
19 the 12-month period preceding the date marking the
20 end of such 5-year period, to satisfy criteria which
21 the Career Council shall establish, consistent with
22 those under section 104(b)(3); or

23 (B) except if, or for so long as, a waiver re-
24 mains in effect with respect to such individual under
25 section 104(c).

TITLE II—THE TRADE SERVICE INSTITUTE

3 SEC. 201. ESTABLISHMENT.

4 The Policy Council shall establish a Trade Service In-
5 stitute in order to furnish training and instruction—

(1) to candidates for Tier I;

7 (2) to members of the Corps; and

8 (3) to any other Government employees as may
9 be appropriate.

10 SEC. 202. DIRECTOR OF THE TRADE SERVICE INSTITUTE.

11 (a) APPOINTMENT.—(1) The head of the Institute,
12 who shall be known as the Director of the Trade Service
13 Institute, shall be appointed by the Policy Council from
14 among individuals recommended by the Career Council.

15 (2) The Director shall be appointed for a term of 2
16 years, which shall be renewable.

17 (b) DUTIES.—The Director shall, in accordance with
18 section 103(b) and other applicable provisions of this
19 Act—

20 (1) establish the basic procedures to be followed
21 by the Institute;

22 (2) plan and provide for the general nature of
23 the training and instruction to be furnished at the
24 Institute:

- 1 (3) correlate the training and instruction to be
2 furnished at the Institute with training activities
3 otherwise available through Government facilities or
4 other sources;
- 5 (4) encourage and foster such programs outside
6 of the Institute as will be complementary to those of
7 the Institute; and
- 8 (5) take such other action as may be required
9 for the proper administration of the Institute.

10 **SEC. 203. STAFF.**

- 11 (a) IN GENERAL.—The Director may appoint to the
12 faculty or other staff of the Institute such personnel as
13 the Director considers necessary to carry out its purposes.
- 14 (b) APPLICABILITY OF CIVIL SERVICE LAWS.—The
15 faculty and other staff of the Institute shall be appointed
16 subject to the provisions of title 5, United States Code,
17 governing appointments in the competitive service, and
18 shall be paid in accordance with the provisions of chapter
19 51 and subchapter III of chapter 53 of such title relating
20 to classification and General Schedule pay rates, and such
21 other related provisions of law as may apply.
- 22 (c) CRITERIA.—All appointments under this section
23 shall be made without regard to political affiliation and
24 shall be made solely on the basis of demonstrated interest
25 in, and capacity to promote, the purposes of the Institute.

1 (d) DETAILS.—Upon request of the Director, the
2 head of any Government agency is authorized to detail,
3 on a reimbursable or nonreimbursable basis, any of the
4 personnel of such agency to the Institute to assist it in
5 carrying out its duties under this Act.

6 **SEC. 204. ACQUISITION OF PROPERTY.**

7 (a) IN GENERAL.—The Director may, in the name
8 of the United States, acquire such real property, and such
9 other property and equipment, as may be necessary for
10 the operation and maintenance of the Institute.

11 (b) LIMITATION.—Authority under subsection (a)
12 shall be effective only to such extent or in such amounts
13 as are provided in advance in appropriation Acts.

14 **SEC. 205. SERVICE AGREEMENTS.**

15 (a) IN GENERAL.—A Government employee (other
16 than one under section 201(3)) accepted for instruction
17 or training at the Institute shall agree in writing with the
18 Government, before commencement of such instruction or
19 training, that such employee will—

20 (1) remain in the service of the Government
21 after the end of the period of instruction or training
22 for a period equal to at least 3 times the length of
23 the period of instruction or training, as the case may
24 be; and

1 (2) pay to the Government the amount of the
2 expenses incurred by the Government in connection
3 with providing such instruction or training to such
4 employee if such employee is voluntarily separated
5 from Government service before the end of the pe-
6 riod for which such employee has agreed to remain
7 in Government service.

8 (b) RIGHT OF RECOVERY.—If an employee becomes
9 liable to the Government under subsection (a), but fails
10 to fulfill such employee's obligation to pay, a sum equal
11 to the amount for which such employee is so liable shall
12 be recoverable by the Government from the employee or
13 the employee's estate by—

14 (1) setoff against accrued pay, compensation,
15 amount of retirement credit, or other amount due
16 the employee from the Government; and

17 (2) such other method as is provided by law for
18 the recovery of amounts owing to the Government.

19 The head of the agency concerned may waive, in whole
20 or in part, a right of recovery under this subsection if it
21 is shown that recovery would be against equity and good
22 conscience or against the public interest.

TITLE III—POSTEMPLOYMENT RESTRICTIONS

3 SEC. 301. POSTEMPLOYMENT RESTRICTIONS.

4 Section 207(f) of title 18, United States Code, is
5 amended to read as follows:

6 "(f) RESTRICTIONS RELATING TO FOREIGN ENTI-
7 TIES.—

8 “(1) PERSONS SUBJECT TO SUBSECTION (C),
9 (D), OR (E).—Any person who is subject to the re-
10 strictions contained in subsection (c), (d), or (e)
11 (other than a person under paragraph (2)) and who
12 knowingly, within 8 years after leaving the position,
13 office, or employment referred to in such sub-
14 section—

15 “(A) represents a foreign entity before any
16 officer or employee of any department or agen-
17 cy of the United States with the intent to influ-
18 ence a decision of such officer or employee in
19 carrying out his or her official duties, or

“(B) aids or advises a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties,

1 shall be punished as provided in section 216 of this
2 title.

3 “(2) FORMER MEMBERS OF THE PROFES-
4 SIONAL TRADE SERVICE CORPS.—Any person who
5 is a member of the Professional Trade Service Corps
6 and who knowingly, within 8 years after ceasing to
7 be such a member—

8 “(A) represents a foreign entity before any
9 officer or employee of any department or agen-
10 cy of the United States with the intent to influ-
11 ence a decision of such officer or employee in
12 carrying out his or her official duties, or

13 “(B) aids or advises a foreign entity with
14 the intent to influence a decision of any officer
15 or employee of any department or agency of the
16 United States, in carrying out his or her official
17 duties,

18 shall be punished as provided in section 216 of this
19 title.

20 “(3) DEFINITIONS.—For purposes of this sub-
21 section—

22 “(A) the term ‘foreign entity’ means the
23 government of a foreign country as defined in
24 section 1(e) of the Foreign Agents Registration

1 Act of 1938, as amended, or a foreign political
2 party as defined in section 1(f) of that Act; and
3 “(B) the term ‘member of the Professional
4 Trade Service Corps’ means a ‘member of the
5 Corps’, as defined by section 101(a)(6) of the
6 Professional Trade Service Corps Act.”.

7 **SEC. 302. EFFECTIVE DATE.**

8 (a) IN GENERAL.—Subject to subsection (b), this
9 title and the amendments made by this title shall take ef-
10 fect as of the effective date of title I (as specified in section
11 107(a)).

12 (b) EXCEPTION.—(1) The amendments made by this
13 title do not, except as provided in paragraph (2), apply
14 to a person whose service as a Government employee to
15 which such amendments apply terminated before the effec-
16 tive date of such amendments.

17 (2) Paragraph (1) does not preclude the application
18 of the amendments made by this title to a person with
19 respect to service as a Government employee by that per-
20 son on or after the effective date of such amendments.

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