

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1224
OFFERED BY MRS. CAROLYN B. MALONEY OF
NEW YORK**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Merit Systems Protec-
3 tion Board Empowerment Act of 2021”.

**4 SEC. 2. REAUTHORIZATION OF MERIT SYSTEMS PROTEC-
5 TION BOARD.**

6 Section 8(a)(1) of the Whistleblower Protection Act
7 of 1989 (5 U.S.C. 5509 note) is amended by striking
8 “2003, 2004, 2005, 2006, and 2007” and inserting
9 “2022, 2023, 2024, 2025, and 2026”.

**10 SEC. 3. AUTHORIZATION OF FEDERAL EMPLOYEE SURVEYS
11 FOR MERIT SYSTEMS STUDIES.**

12 Section 1204(e)(3) of title 5, United States Code, is
13 amended by—

14 (1) striking “(3) In carrying” and inserting
15 “(3)(A) In carrying”; and

16 (2) adding at the end the following:

1 “(B) The Office of Personnel Management and other
2 agencies shall—

3 “(i) provide assistance to the Board to facilitate
4 the conduct by the Board of surveys of employees;
5 and

6 “(ii) upon request, unless otherwise prohibited
7 by law, provide to the Board records and informa-
8 tion concerning applicants for Federal employ-
9 ment.”.

10 **SEC. 4. WHISTLEBLOWER TRAINING FOR MSPB ADMINIS-**
11 **TRATIVE JUDGES.**

12 Section 7701(b)(1) of title 5, United States Code, is
13 amended to read as follows:

14 “(1)(A) The Board may hear any case appealed
15 to it or may refer the case to an administrative law
16 judge appointed under section 3105 or other em-
17 ployee of the Board designated by the Board to hear
18 such cases, except that any case involving—

19 “(i) a removal from the service shall be
20 heard by the Board, an employee experienced in
21 hearing appeals, or an administrative law judge;
22 and

23 “(ii) an alleged prohibited personnel prac-
24 tice in violation of section 2302(b)(8), section
25 2302(b)(9)(A)(i), (B), (C), or (D), or section

1 2302(b)(13) shall be heard by the Board or an
2 administrative law judge or other employee of
3 the Board designated by the Board to hear
4 such cases who has successfully completed
5 training regarding protections afforded by the
6 Whistleblower Protection Act of 1989.

7 “(B) The Board, administrative law judge, or
8 other employee (as the case may be) shall make a
9 decision after receipt of the written representations
10 of the parties to the appeal and after opportunity for
11 a hearing under subsection (a)(1) of this section. A
12 copy of the decision shall be furnished to each party
13 to the appeal and to the Office of Personnel Man-
14 agement.”.

