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.

This Act may be cited as the “Merit Systems Protection Board Empowerment Act of 2021”.

2  SEC. 2. REAUTHORIZATION OF MERIT SYSTEMS PROTECTION BOARD.


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

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

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

(2) adding at the end the following:
“(B) The Office of Personnel Management and other agencies shall—

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

“(ii) upon request, unless otherwise prohibited by law, provide to the Board records and information concerning applicants for Federal employment.”.

**SEC. 4. WHISTLEBLOWER TRAINING FOR MSPB ADMINISTRATIVE JUDGES.**

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

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

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

“(ii) an alleged prohibited personnel practice in violation of section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), or (D), or section
2302(b)(13) shall be heard by the Board or an administrative law judge or other employee of the Board designated by the Board to hear such cases who has successfully completed training regarding protections afforded by the Whistleblower Protection Act of 1989.

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