

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4448
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 “Administrative Law
3 Judges Competitive Service Restoration Act”.

4 SEC. 2. APPOINTMENT OF ADMINISTRATIVE LAW JUDGES.

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

7 “§ 3105. Appointment of administrative law judges

8 “(a) SELECTION; EXAMINATION.—Administrative
9 law judges shall be appointed by the head of an Executive
10 agency from a list of eligible candidates provided by the
11 Office of Personnel Management based upon successful
12 examination and approval of the qualifications of the indi-
13 vidual by the Office.

14 “(b) MINIMUM QUALIFICATIONS AND CONDITIONS
15 OF EMPLOYMENT.—

16 “(1) LICENSURE.—At the time of application
17 for a position, the individual must possess a profes-

1 sional license to practice law under the laws of a
2 State, the District of Columbia, the Commonwealth
3 of Puerto Rico, or any territorial court.

4 “(2) QUALIFYING EXPERIENCE.—To be eligible
5 to serve as an administrative law judge, an indi-
6 vidual shall have not less than 7 years of experience
7 as a licensed attorney preparing for, litigating, adju-
8 dicating, participating in, or reviewing formal hear-
9 ings or trials involving civil, criminal, or administra-
10 tive law at the Federal, State, or local level.

11 “(c) COMPETITIVE SERVICE.—Administrative law
12 judge positions shall be positions in the competitive serv-
13 ice.

14 “(d) ASSIGNMENT.—Administrative law judges shall
15 be assigned to cases in rotation as far as practicable, and
16 may not perform duties inconsistent with their duties and
17 responsibilities as administrative law judges.

18 “(e) AUTHORITY AND ROLE OF ADMINISTRATIVE
19 LAW JUDGES IN RELATION TO EXECUTIVE AGENCY
20 HEADS.—

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

24 “(2) ALJ.—An administrative law judge (in this
25 paragraph referred to as an ‘ALJ’) shall report di-

1 rectly to the chief administrative law judge (if any)
2 of the Executive agency at which the ALJ is ap-
3 pointed. If there is no chief administrative law
4 judge, the ALJ shall report directly to the head of
5 such Executive agency.

6 “(3) CLARIFICATION.—Nothing in this sub-
7 section shall be construed to limit or otherwise miti-
8 gate the ability or independence of an administrative
9 law judge in carrying out his or her duties and re-
10 sponsibilities as an administrative law judge.”.

11 (b) EXEMPTION FROM PROBATIONARY PERIOD.—
12 Section 3321(c) of title 5, United States Code, is amended
13 to read as follows:

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

21 (c) CLARIFICATION OF APPLICATION OF DISCIPLI-
22 NARY PROCEDURES.—Notwithstanding the amendments
23 made by this Act that classify administrative law judges
24 within the competitive service, an administrative law judge
25 shall not be subject to subchapter I or II of chapter 75

1 of title 5, United States Code, and shall be subject to the
2 requirements of subchapter III of such chapter.

3 (d) CONVERSIONS.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), with respect to any individual serving on
6 the date of the enactment of this Act in an excepted
7 service position as an administrative law judge ap-
8 pointed under section 3105 of title 5, United States
9 Code, as in effect on the day before the date of the
10 enactment of this Act, not later than 30 days after
11 such date of enactment the head of an Executive
12 agency (as that term is defined in section 105 of
13 such title) employing the individual shall non-
14 competitively convert such individual to a career ap-
15 pointment in the competitive service in the Executive
16 agency.

17 (2) EXCEPTION.—Paragraph (1) shall not
18 apply to any individual serving on the date of the
19 enactment of this Act in an excepted service position
20 as an administrative law judge and who was ap-
21 pointed under such section 3105, as in effect on the
22 day before the date of the enactment of this Act,
23 during the period beginning on July 11, 2018, and
24 ending on such date of enactment.

