

118TH CONGRESS
1ST SESSION

H. R. 20

To amend the National Labor Relations Act, the Labor Management Relations Act, 1947, and the Labor-Management Reporting and Disclosure Act of 1959, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2023

Mr. SCOTT of Virginia (for himself, Mr. FITZPATRICK, Mr. BOWMAN, Mr. DELUZIO, Mr. SARBANES, Ms. BUDZINSKI, Ms. BONAMICI, Ms. HOULAHAN, Mr. SHERMAN, Mr. PASCRELL, Mr. GOLDEN of Maine, Mr. HOYER, Mr. SMITH of Washington, Ms. MOORE of Wisconsin, Mrs. PELTOLA, Mr. POCAN, Mr. CARSON, Mr. CARTWRIGHT, Mr. PAYNE, Mr. ROBERT GARCIA of California, Ms. VELÁZQUEZ, Mr. SORENSEN, Mr. HIGGINS of New York, Mr. CASTEN, Ms. MCCOLLUM, Ms. SLOTKIN, Mr. DAVIS of Illinois, Ms. CLARKE of New York, Ms. HOYLE of Oregon, Mr. KILDEE, Mrs. WATSON COLEMAN, Mr. GARAMENDI, Ms. PORTER, Ms. SCHRIER, Mr. SWALWELL, Ms. TOKUDA, Mr. DESAULNIER, Mr. BOYLE of Pennsylvania, Ms. NORTON, Ms. TITUS, Mr. LYNCH, Mr. NICKEL, Ms. WILSON of Florida, Ms. STEVENS, Mr. NADLER, Mr. CONNOLLY, Mr. GOLDMAN of New York, Mr. CLEAVER, Mrs. TRAHAN, Ms. CROCKETT, Mrs. BEATTY, Ms. ESCOBAR, Mr. BEYER, Ms. SÁNCHEZ, Mr. KIM of New Jersey, Ms. PINGREE, Mr. CASAR, Mr. TAKANO, Mr. LARSON of Connecticut, Mrs. DINGELL, Mr. LANDSMAN, Mr. BLUMENAUER, Mr. GARCÍA of Illinois, Mr. NORCROSS, Ms. LEE of California, Mr. MOULTON, Mr. MAGAZINER, Mr. HUFFMAN, Mr. FROST, Mr. VARGAS, Ms. WILD, Mr. THOMPSON of California, Ms. WILLIAMS of Georgia, Mr. CÁRDENAS, Ms. BARRAGÁN, Mr. PANETTA, Mr. VEASEY, Mr. MEEKS, Mrs. NAPOLITANO, Mr. CASTRO of Texas, Ms. MENG, Ms. SCHAKOWSKY, Ms. DELAURO, Mr. STANTON, Mr. THOMPSON of Mississippi, Ms. CASTOR of Florida, Mr. DAVIS of North Carolina, Mr. GOMEZ, Mr. CICILLINE, Mr. RUIZ, Mr. KEATING, Mr. MRVAN, Ms. ADAMS, Ms. JACOBS, Ms. SCHOLTEN, Mrs. FOUSHEE, Mr. COHEN, Mrs. HAYES, Mr. EVANS, Mr. FOSTER, Ms. ROSS, Ms. GARCIA of Texas, Ms. CHU, Ms. JACKSON LEE, Mr. KILMER, Mr. QUIGLEY, Ms. MANNING, Mr. SCHIFF, Mr. CARBAJAL, Mr. GREEN of Texas, Mr. MORELLE, Ms. BALINT, Mr. COURTNEY, Ms. KELLY of Illinois, Ms. LOIS FRANKEL of Florida, Ms. ESHOO, Ms. JAYAPAL, Ms. SHERRILL, Mr. TRONE, Mr. RUPPERSBERGER, Mr. MFUME, Mr. PALLONE, Mr. KRISHNAMOORTHY, Mr. TORRES of New York, Mr. JACKSON of North Carolina, Mr. DAVID SCOTT of Georgia, Mr.

SOTO, Mr. LARSEN of Washington, Ms. KAPTUR, Mr. HORSFORD, Mr. RYAN, Ms. PRESSLEY, Mr. MCGARVEY, Mr. HARDER of California, Ms. STANSBURY, Ms. CRAIG, Ms. PETERSEN, Mr. TONKO, Mr. SABLAN, Mr. MENENDEZ, Mr. SCHNEIDER, Mr. LEVIN, Mr. RASKIN, Ms. BUSH, Mr. MCGOVERN, Ms. BROWNLEY, Ms. OMAR, Mr. GALLEGO, Ms. WASSERMAN SCHULTZ, Mr. ESPAILLAT, Mrs. CHERFILUS-MCCORMICK, Ms. BLUNT ROCHESTER, Ms. BROWN, Ms. MATSUI, Mr. CLYBURN, Mr. MULLIN, Ms. SCANLON, Mr. NEGUSE, Mr. GRIJALVA, Ms. UNDERWOOD, Ms. LEGER FERNANDEZ, Ms. KUSTER, Mr. PAPPAS, Mr. AGUILAR, Mr. DOGGETT, Mrs. RAMIREZ, Ms. DELBENE, Ms. KAMLAGER-DOVE, Mr. BISHOP of Georgia, Ms. SALINAS, Mr. CROW, Ms. DEAN of Pennsylvania, Mr. KHANNA, Ms. DEGETTE, Ms. SEWELL, Ms. TLAIB, Mr. MOSKOWITZ, Ms. PEREZ, Ms. STRICKLAND, Mr. CARTER of Louisiana, Mr. AUCHINCLOSS, Mr. NEAL, Ms. SPANBERGER, Ms. OCASIO-CORTEZ, Mrs. TORRES of California, Mr. GOTTHEIMER, Ms. WEXTON, Mr. JOHNSON of Georgia, Ms. CARAVEO, Mrs. MCBATH, Mr. LIEU, Mr. CASE, Mrs. SYKES, Mr. JACKSON of Illinois, Mr. THANEDAR, Ms. LEE of Pennsylvania, Mr. VASQUEZ, Ms. PELOSI, Ms. LOFGREN, Ms. DAVIDS of Kansas, Mr. VICENTE GONZALEZ of Texas, Mr. JEFFRIES, Ms. CLARK of Massachusetts, Mr. PHILLIPS, and Mr. HIMES) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the National Labor Relations Act, the Labor Management Relations Act, 1947, and the Labor-Management Reporting and Disclosure Act of 1959, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives 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 “Richard L. Trumka Protecting the Right to Organize Act
 6 of 2023”.

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

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE NATIONAL LABOR RELATIONS
ACT

- Sec. 101. Definitions.
 Sec. 102. Reports.
 Sec. 103. Appointment.
 Sec. 104. Unfair labor practices.
 Sec. 105. Representatives and elections.
 Sec. 106. Damages for unfair labor practices.
 Sec. 107. Enforcing compliance with orders of the board.
 Sec. 108. Injunctions against unfair labor practices involving discharge or other serious economic harm.
 Sec. 109. Penalties.
 Sec. 110. Limitations on the right to strike.
 Sec. 111. Fair share agreements permitted.

TITLE II—AMENDMENTS TO THE LABOR MANAGEMENT RELATIONS ACT, 1947 AND THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

- Sec. 201. Conforming amendments to the Labor Management Relations Act, 1947.
 Sec. 202. Amendments to the Labor-Management Reporting and Disclosure Act of 1959.

TITLE III—OTHER MATTERS

- Sec. 301. Electronic voting in Union elections.
 Sec. 302. GAO report on sectoral bargaining.
 Sec. 303. Severability.
 Sec. 304. Authorization of appropriations.
 Sec. 305. Rule of Construction.
 Sec. 306. Rule of Construction.
 Sec. 307. Rule of Construction.
 Sec. 308. Rule of Construction.
 Sec. 309. GAO Report.

1 **TITLE I—AMENDMENTS TO THE**
 2 **NATIONAL LABOR RELATIONS**
 3 **ACT**

4 **SEC. 101. DEFINITIONS.**

5 (a) JOINT EMPLOYER.—Section 2(2) of the National
 6 Labor Relations Act (29 U.S.C. 152(2)) is amended by
 7 adding at the end the following: “Two or more persons
 8 shall be employers with respect to an employee if each

1 such person codetermines or shares control over the em-
2 ployee’s essential terms and conditions of employment. In
3 determining whether such control exists, the Board or a
4 court of competent jurisdiction shall consider as relevant
5 direct control and indirect control over such terms and
6 conditions, reserved authority to control such terms and
7 conditions, and control over such terms and conditions ex-
8 ercised by a person in fact: *Provided*, That nothing herein
9 precludes a finding that indirect or reserved control stand-
10 ing alone can be sufficient given specific facts and cir-
11 cumstances.”.

12 (b) EMPLOYEE.—Section 2(3) of the National Labor
13 Relations Act (29 U.S.C. 152(3)) is amended by adding
14 at the end the following: “An individual performing any
15 service shall be considered an employee (except as pro-
16 vided in the previous sentence) and not an independent
17 contractor, unless—

18 “(A) the individual is free from control and
19 direction in connection with the performance of
20 the service, both under the contract for the per-
21 formance of service and in fact;

22 “(B) the service is performed outside the
23 usual course of the business of the employer;
24 and

1 “(C) the individual is customarily engaged
2 in an independently established trade, occupa-
3 tion, profession, or business of the same nature
4 as that involved in the service performed.”.

5 (c) SUPERVISOR.—Section 2(11) of the National
6 Labor Relations Act (29 U.S.C. 152(11)) is amended—

7 (1) by inserting “and for a majority of the indi-
8 vidual’s worktime” after “interest of the employer”;

9 (2) by striking “assign,”; and

10 (3) by striking “or responsibly to direct them,”.

11 **SEC. 102. REPORTS.**

12 Section 3(c) of the National Labor Relations Act is
13 amended—

14 (1) by striking “The Board” and inserting “(1)
15 The Board”;

16 (2) by adding at the end the following:

17 “(2) Effective January 1, 2025, section 3003 of the
18 Federal Reports Elimination and Sunset Act of 1995
19 (Public Law 104–66; 31 U.S.C. 1113 note) shall not apply
20 with respect to reports required under this subsection.

21 “(3) Each report issued under this subsection shall—

22 “(A) include no less detail than reports issued by the
23 Board prior to the termination of such reports under sec-
24 tion 3003 of the Federal Reports Elimination and Sunset
25 Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note);

1 “(B) list each case in which the Designated Agency
2 Ethics Official provided advice regarding whether a Mem-
3 ber should be recused from participating in a case or rule-
4 making; and

5 “(C) list each case in which the Designated Agency
6 Ethics Official determined that a Member should be
7 recused from participating in a case or rulemaking.”.

8 **SEC. 103. APPOINTMENT.**

9 Section 4(a) of the National Labor Relations Act (29
10 U.S.C. 154(a)) is amended by striking “, or for economic
11 analysis”.

12 **SEC. 104. UNFAIR LABOR PRACTICES.**

13 Section 8 of the National Labor Relations Act (29
14 U.S.C. 158) is amended—

15 (1) in subsection (a)—

16 (A) in paragraph (5), by striking the pe-
17 riod and inserting “;”; and

18 (B) by adding at the end the following:

19 “(6) to promise, threaten, or take any action—

20 “(A) to permanently replace an employee
21 who participates in a strike as defined by sec-
22 tion 501(2) of the Labor Management Rela-
23 tions Act, 1947 (29 U.S.C. 142(2));

24 “(B) to discriminate against an employee
25 who is working or has unconditionally offered to

1 return to work for the employer because the
2 employee supported or participated in such a
3 strike; or

4 “(C) to lockout, suspend, or otherwise
5 withhold employment from employees in order to
6 influence the position of such employees or the
7 representative of such employees in collective
8 bargaining prior to a strike; and

9 “(7) to communicate or misrepresent to an em-
10 ployee under section 2(3) that such employee is ex-
11 cluded from the definition of employee under section
12 2(3).”;

13 (2) in subsection (b)—

14 (A) by striking paragraphs (4) and (7);

15 (B) by redesignating paragraphs (5) and
16 (6) as paragraphs (4) and (5), respectively;

17 (C) in paragraph (4), as so redesignated,
18 by striking “affected;” and inserting “affected;
19 and”; and

20 (D) in paragraph (5), as so redesignated,
21 by striking “; and” and inserting a period;

22 (3) in subsection (c), by striking the period at
23 the end and inserting the following: “: *Provided*,
24 That it shall be an unfair labor practice under sub-
25 section (a)(1) for any employer to require or coerce

1 an employee to attend or participate in such employ-
2 er’s campaign activities unrelated to the employee’s
3 job duties, including activities that are subject to the
4 requirements under section 203(b) of the Labor-
5 Management Reporting and Disclosure Act of 1959
6 (29 U.S.C. 433(b)).”;

7 (4) in subsection (d)—

8 (A) by redesignating paragraphs (1)
9 through (4) as subparagraphs (A) through (D),
10 respectively;

11 (B) by striking “For the purposes of this
12 section” and inserting “(1) For purposes of this
13 section”;

14 (C) by inserting “and to maintain current
15 wages, hours, and terms and conditions of em-
16 ployment pending an agreement” after “arising
17 thereunder”;

18 (D) by inserting “: *Provided*, That an em-
19 ployer’s duty to collectively bargain shall con-
20 tinue absent decertification of the labor organi-
21 zation following an election conducted pursuant
22 to section 9” after “making of a concession.”;

23 (E) by inserting “*further*” before “, That
24 where there is in effect”;

1 (F) by striking “The duties imposed” and
2 inserting “(2) The duties imposed”;

3 (G) by striking “by paragraphs (2), (3),
4 and (4)” and inserting “by subparagraphs (B),
5 (C), and (D) of paragraph (1)”;

6 (H) by striking “section 8(d)(1)” and in-
7 serting “paragraph (1)(A)”;

8 (I) by striking “section 8(d)(3)” and in-
9 serting “paragraph (1)(C)” in each place it ap-
10 pears;

11 (J) by striking “section 8(d)(4)” and in-
12 serting “paragraph (1)(D)”;

13 (K) by adding at the end the following:

14 “(3) Whenever collective bargaining is for the pur-
15 pose of establishing an initial collective bargaining agree-
16 ment following certification or recognition of a labor orga-
17 nization, the following shall apply:

18 “(A) Not later than 10 days after receiving a
19 written request for collective bargaining from an in-
20 dividual or labor organization that has been newly
21 recognized or certified as a representative as defined
22 in section 9(a), or within such further period as the
23 parties agree upon, the parties shall meet and com-
24 mence to bargain collectively and shall make every

1 reasonable effort to conclude and sign a collective
2 bargaining agreement.

3 “(B) If after the expiration of the 90-day pe-
4 riod beginning on the date on which bargaining is
5 commenced, or such additional period as the parties
6 may agree upon, the parties have failed to reach an
7 agreement, either party may notify the Federal Me-
8 diation and Conciliation Service of the existence of
9 a dispute and request mediation. Whenever such a
10 request is received, it shall be the duty of the Service
11 promptly to put itself in communication with the
12 parties and to use its best efforts, by mediation and
13 conciliation, to bring them to agreement.

14 “(C) If after the expiration of the 30-day period
15 beginning on the date on which the request for me-
16 diation is made under subparagraph (B), or such ad-
17 ditional period as the parties may agree upon, the
18 Service is not able to bring the parties to agreement
19 by conciliation, the Service shall refer the dispute to
20 a tripartite arbitration panel established in accord-
21 ance with such regulations as may be prescribed by
22 the Service, with one member selected by the labor
23 organization, one member selected by the employer,
24 and one neutral member mutually agreed to by the
25 parties. The labor organization and employer must

1 each select the members of the tripartite arbitration
2 panel within 14 days of the Service’s referral; if the
3 labor organization or employer fail to do so, the
4 Service shall designate any members not selected by
5 the labor organization or the employer. A majority
6 of the tripartite arbitration panel shall render a deci-
7 sion settling the dispute as soon as practicable and
8 not later than within 120 days, absent extraordinary
9 circumstances or by agreement or permission of the
10 parties, and such decision shall be binding upon the
11 parties for a period of 2 years, unless amended dur-
12 ing such period by written consent of the parties.
13 Such decision shall be based on—

14 “(i) the employer’s financial status and
15 prospects;

16 “(ii) the size and type of the employer’s
17 operations and business;

18 “(iii) the employees’ cost of living;

19 “(iv) the employees’ ability to sustain
20 themselves, their families, and their dependents
21 on the wages and benefits they earn from the
22 employer; and

23 “(v) the wages and benefits other employ-
24 ers in the same business provide their employ-
25 ees.”;

1 (5) by amending subsection (e) to read as fol-
2 lows:

3 “(e) Notwithstanding chapter 1 of title 9, United
4 States Code (commonly known as the ‘Federal Arbitration
5 Act’), or any other provision of law, it shall be an unfair
6 labor practice under subsection (a)(1) for any employer—

7 “(1) to enter into or attempt to enforce any
8 agreement, express or implied, whereby prior to a
9 dispute to which the agreement applies, an employee
10 undertakes or promises not to pursue, bring, join,
11 litigate, or support any kind of joint, class, or collec-
12 tive claim arising from or relating to the employ-
13 ment of such employee in any forum that, but for
14 such agreement, is of competent jurisdiction;

15 “(2) to coerce an employee into undertaking or
16 promising not to pursue, bring, join, litigate, or sup-
17 port any kind of joint, class, or collective claim aris-
18 ing from or relating to the employment of such em-
19 ployee; or

20 “(3) to retaliate or threaten to retaliate against
21 an employee for refusing to undertake or promise
22 not to pursue, bring, join, litigate, or support any
23 kind of joint, class, or collective claim arising from
24 or relating to the employment of such employee:

25 *Provided*, That any agreement that violates this sub-

1 section or results from a violation of this subsection
2 shall be to such extent unenforceable and void: *Pro-*
3 *vided further*, That this subsection shall not apply to
4 any agreement embodied in or expressly permitted
5 by a contract between an employer and a labor orga-
6 nization.”;

7 (6) in subsection (g), by striking “clause (B) of
8 the last sentence of section 8(d) of this Act” and in-
9 serting “subsection (d)(2)(B)”;

10 (7) by adding at the end the following:

11 “(h)(1) The Board shall promulgate regulations re-
12 quiring each employer to post and maintain, in con-
13 spicuous places where notices to employees and applicants
14 for employment are customarily posted both physically and
15 electronically, a notice setting forth the rights and protec-
16 tions afforded employees under this Act. The Board shall
17 make available to the public the form and text of such
18 notice. The Board shall promulgate regulations requiring
19 employers to notify each new employee of the information
20 contained in the notice described in the preceding two sen-
21 tences and to ensure that such notice is provided to em-
22 ployees in a language spoken by such employees.

23 “(2) Whenever the Board directs an election under
24 section 9(c) or approves an election agreement, the em-
25 ployer of employees in the bargaining unit shall, not later

1 than 2 business days after the Board directs such election
2 or approves such election agreement, provide a voter list
3 to a labor organization that has petitioned to represent
4 such employees. Such voter list shall include the names
5 of all employees in the bargaining unit and such employ-
6 ees' home addresses, work locations, shifts, job classifica-
7 tions, and, if available to the employer, personal landline
8 and mobile telephone numbers, and work and personal
9 email addresses; the voter list must be provided in a
10 searchable electronic format generally approved by the
11 Board unless the employer certifies that the employer does
12 not possess the capacity to produce the list in the required
13 form. Not later than 9 months after the date of enactment
14 of the Richard L. Trumka Protecting the Right to Orga-
15 nize Act of 2023, the Board shall promulgate regulations
16 implementing the requirements of this paragraph.

17 “(i) The rights of an employee under section 7 in-
18 clude the right to use electronic communication devices
19 and systems (including computers, laptops, tablets, inter-
20 net access, email, cellular telephones, or other company
21 equipment) of the employer of such employee to engage
22 in activities protected under section 7 if such employer has
23 given such employee access to such devices and systems
24 in the course of the work of such employee, absent a com-

1 pelling business rationale for denying or limiting such
2 use.”.

3 **SEC. 105. REPRESENTATIVES AND ELECTIONS.**

4 Section 9 of the National Labor Relations Act (29
5 U.S.C. 159) is amended—

6 (1) in subsection (c)—

7 (A) by amending paragraph (1) to read as
8 follows:

9 “(1) Whenever a petition shall have been filed, in ac-
10 cordance with such regulations as may be prescribed by
11 the Board, by an employee or group of employees or any
12 individual or labor organization acting in their behalf al-
13 leging that a substantial number of employees (i) wish to
14 be represented for collective bargaining and that their em-
15 ployer declines to recognize their representative as the rep-
16 resentative defined in section 9(a), or (ii) assert that the
17 individual or labor organization, which has been certified
18 or is being recognized by their employer as the bargaining
19 representative, is no longer a representative as defined in
20 section 9(a), the Board shall investigate such petition and
21 if it has reasonable cause to believe that a question of rep-
22 resentation affecting commerce exists shall provide for an
23 appropriate hearing upon due notice. Such hearing may
24 be conducted by an officer or employee of the regional of-
25 fice, who shall not make any recommendations with re-

1 spect thereto. If the Board finds upon the record of such
2 hearing that such a question of representation exists, it
3 shall direct an election by secret ballot and shall certify
4 the results thereof. The Board shall find the labor organi-
5 zation’s proposed unit to be appropriate if the employees
6 in the proposed unit share a community of interest, and
7 if the employees outside the unit do not share an over-
8 whelming community of interest with employees inside. At
9 the request of the labor organization, the Board shall di-
10 rect that the election be conducted through certified mail,
11 electronically, at the work location, or at a location other
12 than one owned or controlled by the employer. No em-
13 ployer shall have standing as a party or to intervene in
14 any representation proceeding under this section.”;

15 (B) in paragraph (3), by striking “an eco-
16 nomic strike who are not entitled to reinstatement”
17 and inserting “a strike”;

18 (C) by redesignating paragraphs (4) and
19 (5) as paragraphs (6) and (7), respectively;

20 (D) by inserting after paragraph (3) the
21 following:

22 “(4) If the Board finds that, in an election under
23 paragraph (1), a majority of the valid votes cast in a unit
24 appropriate for purposes of collective bargaining have been
25 cast in favor of representation by the labor organization,

1 the Board shall certify the labor organization as the rep-
2 resentative of the employees in such unit and shall issue
3 an order requiring the employer of such employees to col-
4 lectively bargain with the labor organization in accordance
5 with section 8(d). This order shall be deemed an order
6 under section 10(c) of this Act, without need for a deter-
7 mination of an unfair labor practice.

8 “(5)(A) If the Board finds that, in an election under
9 paragraph (1), a majority of the valid votes cast in a unit
10 appropriate for purposes of collective bargaining have not
11 been cast in favor of representation by the labor organiza-
12 tion, the Board shall certify the results of the election,
13 subject to subparagraphs (B) and (C).

14 “(B) In any case in which a majority of the valid
15 votes cast in a unit appropriate for purposes of collective
16 bargaining have not been cast in favor of representation
17 by the labor organization and the Board determines, fol-
18 lowing a post-election hearing, that the employer has com-
19 mitted a violation of this Act or otherwise interfered with
20 a fair election, and the employer has not demonstrated
21 that the violation or other interference is unlikely to have
22 affected the outcome of the election, the Board shall, with-
23 out ordering a new election, set aside the election and cer-
24 tify the labor organization as the representative of the em-
25 ployees in such unit and issue an order requiring the em-

1 ployer to bargain with the labor organization in accord-
2 ance with section 8(d) if, at any time during the period
3 beginning 1 year preceding the date of the commencement
4 of the election and ending on the date upon which the
5 Board makes the determination of a violation or other in-
6 terference, a majority of the employees in the bargaining
7 unit have signed authorizations designating the labor or-
8 ganization as their collective bargaining representative.

9 “(C) In any case where the Board determines that
10 an election under this paragraph should be set aside, the
11 Board shall direct a new election with appropriate addi-
12 tional safeguards necessary to ensure a fair election proc-
13 ess, except in cases where the Board issues a bargaining
14 order under subparagraph (B).”; and

15 (E) by inserting after paragraph (7), as so
16 redesignated, the following:

17 “(8) Except under extraordinary circumstances—

18 “(A) a pre-election hearing under this sub-
19 section shall begin not later than 8 days after a no-
20 tice of such hearing is served on the labor organiza-
21 tion and shall continue from day to day until com-
22 pleted;

23 “(B) a regional director shall transmit the no-
24 tice of election at the same time as the direction of
25 election, and shall transmit such notice and such di-

1 rection electronically (including transmission by
2 email or facsimile) or by overnight mail if electronic
3 transmission is unavailable;

4 “(C) not later than 2 days after the service of
5 the notice of hearing, the employer shall—

6 “(i) post the Notice of Petition for Elec-
7 tion in conspicuous places, including all places
8 where notices to employees are customarily
9 posted;

10 “(ii) if the employer customarily commu-
11 nicates with employees electronically, distribute
12 such Notice electronically; and

13 “(iii) maintain such posting until the peti-
14 tion is dismissed or withdrawn or the Notice of
15 Petition for Election is replaced by the Notice
16 of Election;

17 “(D) regional directors shall schedule elections
18 for the earliest date practicable, but not later than
19 the 20th business day after the direction of election;
20 and

21 “(E) a post-election hearing under this sub-
22 section shall begin not later than 14 days after the
23 filing of objections, if any.”;

24 (2) in subsection (d), by striking “(e) or” and
25 inserting “(d) or”; and

1 (3) by adding at the end the following:

2 “(f) The Board shall dismiss any petition for an elec-
3 tion with respect to a bargaining unit or any subdivision
4 if, during the 12-month period ending on the date on
5 which the petition is filed—

6 “(1) the employer has recognized a labor orga-
7 nization without an election and in accordance with
8 this Act;

9 “(2) the labor organization and employer en-
10 gaged in their first bargaining session following the
11 issuance of a bargaining order by the Board; or

12 “(3) the labor organization and successor em-
13 ployer engaged in their first bargaining session fol-
14 lowing a succession.

15 “(g) The Board shall dismiss any petition for an elec-
16 tion with respect to a bargaining unit or any subdivision
17 if there is in effect a lawful written collective bargaining
18 agreement between the employer and an exclusive rep-
19 resentative covering any employees in the unit specified
20 in the petition, unless the petition is filed—

21 “(1) on or after the date that is 3 years after
22 the date on which the collective bargaining agree-
23 ment took effect; or

24 “(2) during the 30-day period beginning on the
25 date that is 90 days before the date that is 3 years

1 after the date on which the collective bargaining
2 agreement took effect.

3 “(h) The Board shall suspend the processing of any
4 petition for an election with respect to a bargaining unit
5 or any subdivision if a labor organization files an unfair
6 labor practice charge alleging a violation of section 8(a)
7 and requesting the suspension of a pending petition until
8 the unlawful conduct, if any, is remedied or the charge
9 is dismissed unless the Board determines that employees
10 can, under the circumstances, exercise free choice in an
11 election despite the unlawful conduct alleged in the
12 charge.”.

13 **SEC. 106. DAMAGES FOR UNFAIR LABOR PRACTICES.**

14 Section 10(c) of the National Labor Relations Act
15 (29 U.S.C. 160(c)) is amended by striking “suffered by
16 him” and inserting “suffered by such employee: *Provided*
17 *further*, That if the Board finds that an employer has dis-
18 criminated against an employee in violation of paragraph
19 (3) or (4) of section 8(a) or has committed a violation
20 of section 8(a) that results in the discharge of an employee
21 or other serious economic harm to an employee, the Board
22 shall award the employee back pay without any reduction
23 (including any reduction based on the employee’s interim
24 earnings or failure to earn interim earnings), front pay
25 (when appropriate), consequential damages, and an addi-

1 tional amount as liquidated damages equal to two times
2 the amount of damages awarded: *Provided further*, no re-
3 lief under this subsection shall be denied on the basis that
4 the employee is, or was during the time of relevant em-
5 ployment or during the back pay period, an unauthorized
6 alien as defined in section 274A(h)(3) of the Immigration
7 and Nationality Act (8 U.S.C. 1324a(h)(3)) or any other
8 provision of Federal law relating to the unlawful employ-
9 ment of aliens”.

10 **SEC. 107. ENFORCING COMPLIANCE WITH ORDERS OF THE**
11 **BOARD.**

12 (a) IN GENERAL.—Section 10 of the National Labor
13 Relations Act (29 U.S.C. 160) is further amended—

14 (1) by striking subsection (e);

15 (2) by redesignating subsection (d) as sub-
16 section (e);

17 (3) by inserting after subsection (c) the fol-
18 lowing:

19 “(d)(1) Each order of the Board shall take effect
20 upon issuance of such order, unless otherwise directed by
21 the Board, and shall remain in effect unless modified by
22 the Board or unless a court of competent jurisdiction
23 issues a superseding order.

24 “(2) Any person who fails or neglects to obey an
25 order of the Board shall forfeit and pay to the Board a

1 civil penalty of not more than \$10,000 for each violation,
2 which shall accrue to the United States and may be recov-
3 ered in a civil action brought by the Board to the district
4 court of the United States in which the unfair labor prac-
5 tice or other subject of the order occurred, or in which
6 such person or entity resides or transacts business. No ac-
7 tion by the Board under this paragraph may be made until
8 30 days following the issuance of an order. Each separate
9 violation of such an order shall be a separate offense, ex-
10 cept that, in the case of a violation in which a person fails
11 to obey or neglects to obey a final order of the Board,
12 each day such failure or neglect continues shall be deemed
13 a separate offense.

14 “(3) If, after having provided a person or entity with
15 notice and an opportunity to be heard regarding a civil
16 action under subparagraph (2) for the enforcement of an
17 order, the court determines that the order was regularly
18 made and duly served, and that the person or entity is
19 in disobedience of the same, the court shall enforce obedi-
20 ence to such order by an injunction or other proper proc-
21 ess, mandatory or otherwise, to—

22 “(A) restrain such person or entity or the offi-
23 cers, agents, or representatives of such person or en-
24 tity, from further disobedience to such order; or

1 “(B) enjoin such person or entity, officers,
2 agents, or representatives to obedience to the
3 same.”;

4 (4) in subsection (f)—

5 (A) by striking “proceed in the same man-
6 ner as in the case of an application by the
7 Board under subsection (e) of this section,” and
8 inserting “proceed as provided under paragraph
9 (2) of this subsection”;

10 (B) by striking “Any” and inserting the
11 following:

12 “(1) Within 30 days of the issuance of an
13 order, any”; and

14 (C) by adding at the end the following:

15 “(2) No objection that has not been urged before the
16 Board, its member, agent, or agency shall be considered
17 by a court, unless the failure or neglect to urge such objec-
18 tion shall be excused because of extraordinary cir-
19 cumstances. The findings of the Board with respect to
20 questions of fact if supported by substantial evidence on
21 the record considered as a whole shall be conclusive. If
22 either party shall apply to the court for leave to adduce
23 additional evidence and shall show to the satisfaction of
24 the court that such additional evidence is material and
25 that there were reasonable grounds for the failure to ad-

1 duce such evidence in the hearing before the Board, its
2 member, agent, or agency, the court may order such addi-
3 tional evidence to be taken before the Board, its member,
4 agent, or agency, and to be made a part of the record.
5 The Board may modify its findings as to the facts, or
6 make new findings, by reason of additional evidence so
7 taken and filed, and it shall file such modified or new find-
8 ings, which findings with respect to questions of fact if
9 supported by substantial evidence on the record considered
10 as a whole shall be conclusive, and shall file its rec-
11 ommendations, if any, for the modification or setting aside
12 of its original order. Upon the filing of the record with
13 it the jurisdiction of the court shall be exclusive and its
14 judgment and decree shall be final, except that the same
15 shall be subject to review by the appropriate United States
16 court of appeals if application was made to the district
17 court, and by the Supreme Court of the United States
18 upon writ of certiorari or certification as provided in sec-
19 tion 1254 of title 28, United States Code.”; and

20 (5) in subsection (g), by striking “subsection
21 (e) or (f) of this section” and inserting “subsection
22 (d) or (f)”.

23 (b) CONFORMING AMENDMENT.—Section 18 of the
24 National Labor Relations Act (29 U.S.C. 168) is amended

1 by striking “section 10(e) or (f)” and inserting “sub-
2 section (d) or (f) of section 10”.

3 **SEC. 108. INJUNCTIONS AGAINST UNFAIR LABOR PRAC-**
4 **TICES INVOLVING DISCHARGE OR OTHER SE-**
5 **RIOUS ECONOMIC HARM.**

6 Section 10 of the National Labor Relations Act (29
7 U.S.C. 160) is amended—

8 (1) in subsection (j)—

9 (A) by striking “The Board” and inserting
10 “(1) The Board”; and

11 (B) by adding at the end the following:

12 “(2) Notwithstanding subsection (m), whenever it is
13 charged that an employer has engaged in an unfair labor
14 practice within the meaning of paragraph (1), (3), or (4)
15 of section 8(a) that significantly interferes with, restrains,
16 or coerces employees in the exercise of the rights guaran-
17 teed under section 7, or involves discharge or other serious
18 economic harm to an employee, the preliminary investiga-
19 tion of such charge shall be made forthwith and given pri-
20 ority over all other cases except cases of like character
21 in the office where it is filed or to which it is referred.
22 If, after such investigation, the officer or regional attorney
23 to whom the matter may be referred has reasonable cause
24 to believe such charge is true and that a complaint should
25 issue, such officer or attorney shall bring a petition for

1 appropriate temporary relief or restraining order as set
2 forth in paragraph (1). The district court shall grant the
3 relief requested unless the court concludes that there is
4 no reasonable likelihood that the Board will succeed on
5 the merits of the Board’s claim.”; and

6 (2) by repealing subsections (k) and (l).

7 **SEC. 109. PENALTIES.**

8 (a) IN GENERAL.—Section 12 of the National Labor
9 Relations Act (29 U.S.C. 162) is amended—

10 (1) by striking “SEC. 12. Any person” and in-
11 serting the following:

12 **“SEC. 12. PENALTIES.**

13 “(a) VIOLATIONS FOR INTERFERENCE WITH
14 BOARD.—Any person”; and

15 (2) by adding at the end the following:

16 “(b) VIOLATIONS FOR POSTING REQUIREMENTS AND
17 VOTER LIST.—If the Board, or any agent or agency des-
18 igned by the Board for such purposes, determines that
19 an employer has violated section 8(h) or regulations issued
20 thereunder, the Board shall—

21 “(1) state the findings of fact supporting such
22 determination;

23 “(2) issue and cause to be served on such em-
24 ployer an order requiring that such employer comply

1 with section 8(h) or regulations issued thereunder;
2 and

3 “(3) impose a civil penalty in an amount deter-
4 mined appropriate by the Board, except that in no
5 case shall the amount of such penalty exceed \$500
6 for each such violation.

7 “(c) CIVIL PENALTIES FOR VIOLATIONS.—

8 “(1) IN GENERAL.—Any employer who commits
9 an unfair labor practice within the meaning of sec-
10 tion 8(a) shall, in addition to any remedy ordered by
11 the Board, be subject to a civil penalty in an amount
12 not to exceed \$50,000 for each violation, except
13 that, with respect to an unfair labor practice within
14 the meaning of paragraph (3) or (4) of section 8(a)
15 or a violation of section 8(a) that results in the dis-
16 charge of an employee or other serious economic
17 harm to an employee, the Board shall double the
18 amount of such penalty, to an amount not to exceed
19 \$100,000, in any case where the employer has with-
20 in the preceding 5 years committed another such
21 violation.

22 “(2) CONSIDERATIONS.—In determining the
23 amount of any civil penalty under this subsection,
24 the Board shall consider—

1 “(A) the gravity of the unfair labor prac-
2 tice;

3 “(B) the impact of the unfair labor prac-
4 tice on the charging party, on other persons
5 seeking to exercise rights guaranteed by this
6 Act, and on the public interest; and

7 “(C) the gross income of the employer.

8 “(3) DIRECTOR AND OFFICER LIABILITY.—If
9 the Board determines, based on the particular facts
10 and circumstances presented, that a director or offi-
11 cer’s personal liability is warranted, a civil penalty
12 for a violation described in this subsection may also
13 be assessed against any director or officer of the em-
14 ployer who directed or committed the violation, had
15 established a policy that led to such a violation, or
16 had actual or constructive knowledge of and the au-
17 thority to prevent the violation and failed to prevent
18 the violation.

19 “(d) RIGHT TO CIVIL ACTION.—

20 “(1) IN GENERAL.—Any person who is injured
21 by reason of a violation of paragraph (1), (3), or (4)
22 of section 8(a) may, after 60 days following the fil-
23 ing of a charge with the Board alleging an unfair
24 labor practice, bring a civil action in the appropriate
25 district court of the United States against the em-

1 ployer within 90 days after the expiration of the 60-
2 day period or the date the Board notifies the person
3 that no complaint shall issue, whichever occurs ear-
4 lier, provided that the Board has not filed a petition
5 under section 10(j) of this Act prior to the expira-
6 tion of the 60-day period. No relief under this sub-
7 section shall be denied on the basis that the em-
8 ployee is, or was during the time of relevant employ-
9 ment or during the back pay period, an unauthor-
10 ized alien as defined in section 274A(h)(3) of the
11 Immigration and Nationality Act (8 U.S.C.
12 1324a(h)(3)) or any other provision of Federal law
13 relating to the unlawful employment of aliens.

14 “(2) AVAILABLE RELIEF.—Relief granted in an
15 action under paragraph (1) may include—

16 “(A) back pay without any reduction, in-
17 cluding any reduction based on the employee’s
18 interim earnings or failure to earn interim earn-
19 ings;

20 “(B) front pay (when appropriate);

21 “(C) consequential damages;

22 “(D) an additional amount as liquidated
23 damages equal to two times the cumulative
24 amount of damages awarded under subpara-
25 graphs (A) through (C);

1 “(E) in appropriate cases, punitive dam-
2 ages in accordance with paragraph (4); and

3 “(F) any other relief authorized by section
4 706(g) of the Civil Rights Act of 1964 (42
5 U.S.C. 2000e-5(g)) or by section 1977A(b) of
6 the Revised Statutes (42 U.S.C. 1981a(b)).

7 “(3) ATTORNEY’S FEES.—In any civil action
8 under this subsection, the court may allow the pre-
9 vailing party a reasonable attorney’s fee (including
10 expert fees) and other reasonable costs associated
11 with maintaining the action.

12 “(4) PUNITIVE DAMAGES.—In awarding puni-
13 tive damages under paragraph (2)(E), the court
14 shall consider—

15 “(A) the gravity of the unfair labor prac-
16 tice;

17 “(B) the impact of the unfair labor prac-
18 tice on the charging party, on other persons
19 seeking to exercise rights guaranteed by this
20 Act, and on the public interest; and

21 “(C) the gross income of the employer.”.

22 (b) CONFORMING AMENDMENTS.—Section 10(b) of
23 the National Labor Relations Act (29 U.S.C. 160(b)) is
24 amended—

1 (1) by striking “six months” and inserting
2 “180 days”; and

3 (2) by striking “the six-month period” and in-
4 serting “the 180-day period”.

5 **SEC. 110. LIMITATIONS ON THE RIGHT TO STRIKE.**

6 Section 13 of the National Labor Relations Act (29
7 U.S.C. 163) is amended by striking the period at the end
8 and inserting the following: “: *Provided*, That the dura-
9 tion, scope, frequency, or intermittence of any strike or
10 strikes shall not render such strike or strikes unprotected
11 or prohibited.”.

12 **SEC. 111. FAIR SHARE AGREEMENTS PERMITTED.**

13 Section 14(b) of the National Labor Relations Act
14 (29 U.S.C. 164(b)) is amended by striking the period at
15 the end and inserting the following: “: *Provided*, That col-
16 lective bargaining agreements providing that all employees
17 in a bargaining unit shall contribute fees to a labor organi-
18 zation for the cost of representation, collective bargaining,
19 contract enforcement, and related expenditures as a condi-
20 tion of employment shall be valid and enforceable notwith-
21 standing any State or Territorial law.”.

1 **TITLE II—AMENDMENTS TO THE**
2 **LABOR MANAGEMENT RELA-**
3 **TIONS ACT, 1947 AND THE**
4 **LABOR-MANAGEMENT RE-**
5 **PORTING AND DISCLOSURE**
6 **ACT OF 1959**

7 **SEC. 201. CONFORMING AMENDMENTS TO THE LABOR MAN-**
8 **AGEMENT RELATIONS ACT, 1947.**

9 The Labor Management Relations Act, 1947 is
10 amended—

11 (1) in section 213(a) (29 U.S.C. 183(a)), by
12 striking “clause (A) of the last sentence of section
13 8(d) (which is required by clause (3) of such section
14 8(d)), or within 10 days after the notice under
15 clause (B)” and inserting “section 8(d)(2)(A) of the
16 National Labor Relations Act (which is required by
17 section 8(d)(1)(C) of such Act), or within 10 days
18 after the notice under section 8(d)(2)(B) of such
19 Act”; and

20 (2) by repealing section 303 (29 U.S.C. 187).

21 **SEC. 202. AMENDMENTS TO THE LABOR-MANAGEMENT RE-**
22 **PORTING AND DISCLOSURE ACT OF 1959.**

23 (a) IN GENERAL.—Section 203(c) of the Labor-Man-
24 agement Reporting and Disclosure Act of 1959 (29 U.S.C.
25 433(c)) is amended by striking the period at the end and

1 inserting the following “: *Provided*, That this subsection
2 shall not exempt from the requirements of this section any
3 arrangement or part of an arrangement in which a party
4 agrees, for an object described in subsection (b)(1), to plan
5 or conduct employee meetings; train supervisors or em-
6 ployer representatives to conduct meetings; coordinate or
7 direct activities of supervisors or employer representatives;
8 establish or facilitate employee committees; identify em-
9 ployees for disciplinary action, reward, or other targeting;
10 or draft or revise employer personnel policies, speeches,
11 presentations, or other written, recorded, or electronic
12 communications to be delivered or disseminated to employ-
13 ees.”.

14 (b) WHISTLEBLOWER PROTECTIONS.—The Labor-
15 Management Reporting and Disclosure Act of 1959 (29
16 U.S.C. 401 et seq.) is further amended—

17 (1) by redesignating section 611 (29 U.S.C.
18 531) as section 612; and

19 (2) by inserting after section 610 (29 U.S.C.
20 530), the following new section:

21 “WHISTLEBLOWER PROTECTIONS

22 “SEC. 611.

23 “(a) IN GENERAL.—No employer or labor organiza-
24 tion shall terminate or in any other way discriminate
25 against, or cause to be terminated or discriminated
26 against, any applicant, covered employee, or former cov-

1 ered employee, of the employer or the labor organization
2 by reason of the fact that such applicant, covered em-
3 ployee, or former covered employee does, or the employer
4 or labor organization perceives the employee to do, any
5 of the following:

6 “(1) Provide, cause to be provided, or is about
7 to provide or cause to be provided, information to
8 the labor organization, the employer, the Depart-
9 ment of Labor, or any other State, local, or Federal
10 Government authority or law enforcement agency re-
11 lating to any violation of, or any act or omission
12 that such employee reasonably believes to be a viola-
13 tion of, any provision of this Act.

14 “(2) Testify or plan to testify or otherwise par-
15 ticipate in any proceeding resulting from the admin-
16 istration or enforcement of any provision of this Act.

17 “(3) File, institute, or cause to be filed or insti-
18 tuted, any proceeding under this Act.

19 “(4) Assist in any activity described in para-
20 graphs (1) through (3).

21 “(5) Object to, or refuse to participate in, any
22 activity, policy, practice, or assigned task that such
23 covered employee reasonably believes to be in viola-
24 tion of any provision of this Act.

1 “(b) DEFINITION OF COVERED EMPLOYEE.—For the
2 purposes of this section, the term ‘covered employee’
3 means any employee or agent of an employer or labor or-
4 ganization, including any person with management re-
5 sponsibilities on behalf of the employer or labor organiza-
6 tion.

7 “(c) PROCEDURES AND TIMETABLES.—

8 “(1) COMPLAINT.—

9 “(A) IN GENERAL.—An applicant, covered
10 employee, or former covered employee who be-
11 lieves that he or she has been terminated or in
12 any other way discriminated against by any
13 person in violation of subsection (a) may file (or
14 have any person file on his or her behalf) a
15 complaint with the Secretary of Labor alleging
16 such violation. Such a complaint must be filed
17 not later than either—

18 “(i) 180 days after the date on which
19 such alleged violation occurs; or

20 “(ii) 180 days after the date upon
21 which the employee knows or should rea-
22 sonably have known that such alleged vio-
23 lation in subsection (a) occurred.

24 “(B) ACTIONS OF SECRETARY OF
25 LABOR.—Upon receipt of such a complaint, the

1 Secretary of Labor shall notify, in writing, the
2 person named in the complaint who is alleged
3 to have committed the violation, of—

4 “(i) the filing of the complaint;

5 “(ii) the allegations contained in the
6 complaint;

7 “(iii) the substance of evidence sup-
8 porting the complaint; and

9 “(iv) opportunities that will be af-
10 farded to such person under paragraph
11 (2).

12 “(2) INVESTIGATION BY SECRETARY OF
13 LABOR.—

14 “(A) IN GENERAL.—Not later than 60
15 days after the date of receipt of a complaint
16 filed under paragraph (1), and after affording
17 the complainant and the person named in the
18 complaint who is alleged to have committed the
19 violation that is the basis for the complaint an
20 opportunity to submit to the Secretary of Labor
21 a written response to the complaint and an op-
22 portunity to meet with a representative of the
23 Secretary of Labor to present statements from
24 witnesses, the Secretary of Labor shall—

1 “(i) initiate an investigation and de-
2 termine whether there is reasonable cause
3 to believe that the complaint has merit;
4 and

5 “(ii) notify the complainant and the
6 person alleged to have committed the viola-
7 tion of subsection (a), in writing, of such
8 determination.

9 “(B) GROUNDS FOR DETERMINATION OF
10 COMPLAINTS.—The Secretary of Labor shall
11 dismiss a complaint filed under this subsection,
12 and shall not conduct an investigation otherwise
13 required under paragraph (2), unless the com-
14 plainant makes a prima facie showing that any
15 behavior described in paragraphs (1) through
16 (5) of subsection (a) was a contributing factor
17 in the unfavorable personnel action alleged in
18 the complaint.

19 “(3) BURDENS OF PROOF.—

20 “(A) CRITERIA FOR DETERMINATION.—In
21 making a determination or adjudicating a com-
22 plaint pursuant to this subsection, the Sec-
23 retary, an administrative law judge or a court
24 may determine that a violation of subsection (a)
25 has occurred only if the complainant dem-

1 onstrates that any conduct described in sub-
2 section (a) with respect to the complainant was
3 a contributing factor in the adverse action al-
4 leged in the complaint.

5 “(B) PROHIBITION.—Notwithstanding sub-
6 paragraph (A), a decision or order that is favor-
7 able to the complainant shall not be issued in
8 any administrative or judicial action pursuant
9 to this subsection if the respondent dem-
10 onstrates by clear and convincing evidence that
11 the respondent would have taken the same ad-
12 verse action in the absence of such conduct.

13 “(C) NOTICE OF RELIEF AVAILABLE.—If
14 the Secretary of Labor concludes that there is
15 reasonable cause to believe that a violation of
16 subsection (a) has occurred, the Secretary of
17 Labor shall, together with the notice under
18 paragraph (2)(A)(ii), issue a preliminary order
19 providing the relief prescribed by paragraph
20 (4)(B).

21 “(D) REQUEST FOR HEARING.—Not later
22 than 30 days after the date of receipt of notifi-
23 cation of a determination of the Secretary of
24 Labor under this paragraph, either the person
25 alleged to have committed the violation or the

1 complainant may file objections to the findings
2 or preliminary order, or both, and request a
3 hearing on the record. The filing of such objec-
4 tions shall not operate to stay any reinstate-
5 ment remedy contained in the preliminary
6 order. Any such hearing shall be conducted ex-
7 peditiously, and if a hearing is not requested in
8 such 30-day period, the preliminary order shall
9 be deemed a final order that is not subject to
10 judicial review.

11 “(E) PROCEDURES.—

12 “(i) IN GENERAL.—A hearing re-
13 quested under this paragraph shall be con-
14 ducted expeditiously and in accordance
15 with rules established by the Secretary for
16 hearings conducted by administrative law
17 judges.

18 “(ii) SUBPOENAS; PRODUCTION OF
19 EVIDENCE.— In conducting any such hear-
20 ing, the administrative law judge may issue
21 subpoenas. The respondent or complainant
22 may request the issuance of subpoenas
23 that require the deposition of, or the at-
24 tendance and testimony of, witnesses and
25 the production of any evidence (including

1 any books, papers, documents, or record-
2 ings) relating to the matter under consid-
3 eration.

4 “(4) ISSUANCE OF FINAL ORDERS; REVIEW
5 PROCEDURES.—

6 “(A) TIMING.—Not later than 120 days
7 after the date of conclusion of any hearing
8 under paragraph (2), the Secretary of Labor
9 shall issue a final order providing the relief pre-
10 scribed by this paragraph or denying the com-
11 plaint. At any time before issuance of a final
12 order, a proceeding under this subsection may
13 be terminated on the basis of a settlement
14 agreement entered into by the Secretary of
15 Labor, the complainant, and the person alleged
16 to have committed the violation.

17 “(B) AVAILABLE RELIEF.—

18 “(i) ORDER OF SECRETARY OF
19 LABOR.—If, in response to a complaint
20 filed under paragraph (1), the Secretary of
21 Labor determines that a violation of sub-
22 section (a) has occurred, the Secretary of
23 Labor shall order the person who com-
24 mitted such violation—

1 “(I) to take affirmative action to
2 abate the violation;

3 “(II) to reinstate the complain-
4 ant to his or her former position, to-
5 gether with compensation (including
6 back pay with interest) and restore
7 the terms, conditions, and privileges
8 associated with his or her employ-
9 ment;

10 “(III) to provide compensatory
11 damages to the complainant; and

12 “(IV) expungement of all warn-
13 ings, reprimands, or derogatory ref-
14 erences that have been placed in
15 paper or electronic records or data-
16 bases of any type relating to the ac-
17 tions by the complainant that gave
18 rise to the unfavorable personnel ac-
19 tion, and, at the complainant’s direc-
20 tion, transmission of a copy of the de-
21 cision on the complaint to any person
22 whom the complainant reasonably be-
23 lieves may have received such unfavor-
24 able information.

1 “(ii) COSTS AND EXPENSES.—If an
2 order is issued under clause (i), the Sec-
3 retary of Labor, at the request of the com-
4 plainant, shall assess against the person
5 against whom the order is issued, a sum
6 equal to the aggregate amount of all costs
7 and expenses (including attorney fees and
8 expert witness fees) reasonably incurred,
9 as determined by the Secretary of Labor,
10 by the complainant for, or in connection
11 with, the bringing of the complaint upon
12 which the order was issued.

13 “(C) FRIVOLOUS CLAIMS.—If the Sec-
14 retary of Labor finds that a complaint under
15 paragraph (1) is frivolous or has been brought
16 in bad faith, the Secretary of Labor may award
17 to the prevailing employer or labor organization
18 a reasonable attorney fee, not exceeding \$1,000,
19 to be paid by the complainant.

20 “(D) DE NOVO REVIEW.—

21 “(i) FAILURE OF THE SECRETARY TO
22 ACT.—If the Secretary of Labor has not
23 issued a final order within 270 days after
24 the date of filing of a complaint under this
25 subsection, or within 90 days after the

1 date of receipt of a written determination,
2 the complainant may bring an action at
3 law or equity for de novo review in the ap-
4 propriate district court of the United
5 States having jurisdiction, which shall have
6 jurisdiction over such an action without re-
7 gard to the amount in controversy, and
8 which action shall, at the request of either
9 party to such action, be tried by the court
10 with a jury.

11 “(ii) PROCEDURES.—A proceeding
12 under clause (i) shall be governed by the
13 same legal burdens of proof specified in
14 paragraph (3). The court shall have juris-
15 diction to grant all relief necessary to
16 make the employee whole, including injunc-
17 tive relief and compensatory damages, in-
18 cluding—

19 “(I) reinstatement with the same
20 seniority status that the employee
21 would have had, but for the discharge
22 or discrimination;

23 “(II) the amount of back pay,
24 with interest;

1 “(III) compensation for any spe-
2 cial damages sustained as a result of
3 the discharge or discrimination, in-
4 cluding litigation costs, expert witness
5 fees, and reasonable attorney fees;
6 and

7 “(IV) expungement of all warn-
8 ings, reprimands, or derogatory ref-
9 erences that have been placed in
10 paper or electronic records or data-
11 bases of any type relating to the ac-
12 tions by the complainant that gave
13 rise to the unfavorable personnel ac-
14 tion, and, at the complainant’s direc-
15 tion, transmission of a copy of the de-
16 cision on the complaint to any person
17 whom the complainant reasonably be-
18 lieves may have received such unfavor-
19 able information.

20 “(E) OTHER APPEALS.—Unless the com-
21 plainant brings an action under subparagraph
22 (D), any person adversely affected or aggrieved
23 by a final order issued under subparagraph (A)
24 may file a petition for review of the order in the
25 United States Court of Appeals for the circuit

1 in which the violation with respect to which the
2 order was issued, allegedly occurred or the cir-
3 cuit in which the complainant resided on the
4 date of such violation, not later than 60 days
5 after the date of the issuance of the final order
6 of the Secretary of Labor under subparagraph
7 (A). Review shall conform to chapter 7 of title
8 5, United States Code. The commencement of
9 proceedings under this subparagraph shall not,
10 unless ordered by the court, operate as a stay
11 of the order. An order of the Secretary of
12 Labor with respect to which review could have
13 been obtained under this subparagraph shall
14 not be subject to judicial review in any criminal
15 or other civil proceeding.

16 “(5) FAILURE TO COMPLY WITH ORDER.—

17 “(A) ACTIONS BY THE SECRETARY.—If
18 any person has failed to comply with a final
19 order issued under paragraph (4), the Secretary
20 of Labor may file a civil action in the United
21 States district court for the district in which
22 the violation was found to have occurred, or in
23 the United States district court for the District
24 of Columbia, to enforce such order. In actions
25 brought under this paragraph, the district

1 courts shall have jurisdiction to grant all appro-
2 priate relief including injunctive relief, compen-
3 satory and punitive damages.

4 “(B) CIVIL ACTIONS TO COMPEL COMPLI-
5 ANCE.—A person on whose behalf an order was
6 issued under paragraph (4) may commence a
7 civil action against the person to whom such
8 order was issued to require compliance with
9 such order. The appropriate United States dis-
10 trict court shall have jurisdiction, without re-
11 gard to the amount in controversy or the citi-
12 zenship of the parties, to enforce such order.

13 “(C) AWARD OF COSTS AUTHORIZED.—
14 The court, in issuing any final order under this
15 paragraph, may award costs of litigation (in-
16 cluding reasonable attorney and expert witness
17 fees) to any party, whenever the court deter-
18 mines such award is appropriate.

19 “(D) MANDAMUS PROCEEDINGS.—Any
20 nondiscretionary duty imposed by this section
21 shall be enforceable in a mandamus proceeding
22 brought under section 1361 of title 28, United
23 States Code.

24 “(d) UNENFORCEABILITY OF CERTAIN AGREE-
25 MENTS.—Notwithstanding any other provision of law, the

1 rights and remedies provided for in this section may not
2 be waived by any agreement, policy, form, or condition of
3 employment, including by any predispute arbitration
4 agreement.

5 “(e) SAVINGS.—Nothing in this subsection shall be
6 construed to diminish the rights, privileges, or remedies
7 of any employee who exercises rights under any Federal
8 or State law or common law, or under any collective bar-
9 gaining agreement.”.

10 (c) Section 203(b) of the Labor-Management Report-
11 ing and Disclosure Act of 1959 (29 U.S.C. 433(b)) is
12 amended in the matter following paragraph (2)—

13 (1) by striking the period at the end; and

14 (2) by inserting “and shall make such informa-
15 tion available to the public in a readily accessible
16 and searchable electronic format, and through a se-
17 cure software application for use on an electronic de-
18 vice.”.

19 **TITLE III—OTHER MATTERS**

20 **SEC. 301. ELECTRONIC VOTING IN UNION ELECTIONS.**

21 (a) IN GENERAL.—

22 (1) ELECTRONIC VOTING SYSTEM.—Notwith-
23 standing any other provision of law, subject to the
24 provisions of this section, not later than 1 year after
25 the date of the enactment of this Act, the National

1 Labor Relations Board shall implement a system
2 and procedures to conduct representation elections
3 remotely using an electronic voting system.

4 (2) PROCEDURES.—The procedures under para-
5 graph (1) shall ensure that each employee voting in
6 a representation election may choose to cast a vote
7 using either an internet voting system or a telephone
8 voting system.

9 (b) REPORT.—Not later than 1 year after the date
10 of the enactment of this Act, and in each subsequent re-
11 port under Section 3(c) of the National Labor Relations
12 Act, as amended, the Board shall submit to Congress a
13 report containing a description of the following:

14 (1) For each representation petition under sec-
15 tion 9 of the National Labor Relations Act filed—

16 (A) the case name and case number;

17 (B) the number of days between the peti-
18 tion and the election;

19 (C) the number of days between the stipu-
20 lation or direction of election and the election;

21 (D) the method of the election;

22 (E) the results of the election; and

23 (F) the number of eligible voters, the num-
24 ber of voters participating in the election, and

1 the method by which each of the voters sub-
2 mitted their vote.

3 (2) The total cost of conducting all elections the
4 Board conducted through the system and procedures
5 required by subsection (a).

6 (c) DEFINITIONS.—In this section:

7 (1) ELECTRONIC VOTING SYSTEM.—The term
8 “electronic voting system”—

9 (A) includes an internet voting system and
10 a telephone voting system; and

11 (B) does not include machines used for
12 casting votes at a polling site or an electronic
13 tabulation system where votes are cast non-elec-
14 tronically but counted electronically (such as a
15 punch card or optical scanning system).

16 (2) INTERNET VOTING SYSTEM.—The term
17 “internet voting system” means an internet-based
18 voting system that allows a participant to cast a bal-
19 lot remotely using a personal computer or other mo-
20 bile electronic device that is connected to the inter-
21 net.

22 (3) TELEPHONE VOTING SYSTEM.—The term
23 “telephone voting system” means a voting system in
24 which participants may cast a vote remotely using a
25 telephone.

1 (4) REMOTELY.—The term “remotely”, used
2 with respect to voting in a representation election,
3 means a vote may be cast at any site chosen by a
4 participant in such election.

5 (5) REPRESENTATION ELECTION.—The term
6 “representation election” means a representation
7 election under section 9 of the National Labor Rela-
8 tions Act (29 U.S.C. 159).

9 **SEC. 302. GAO REPORT ON SECTORAL BARGAINING.**

10 (a) IN GENERAL.—Not later than 3 years after the
11 date of enactment of this Act, the Comptroller General
12 shall conduct a review of collective bargaining at the sec-
13 toral level in a geographically diverse set of countries
14 where sectoral bargaining is facilitated and prepare and
15 submit to Congress a report with respect to such countries
16 that—

17 (1) identifies, analyzes, and compares—

18 (A) the laws and policies governing or re-
19 lated to collective bargaining at the sectoral
20 level;

21 (B) the administrative systems facilitating
22 such bargaining; and

23 (C) the procedures involved in sectoral bar-
24 gaining;

1 (2) to the extent practicable, consider reported
2 effects of the policies and procedures described in
3 paragraph (1) on—

4 (A) the wages and compensation of em-
5 ployees;

6 (B) the number of full-time and part-time
7 employees;

8 (C) prices, sales, and revenues;

9 (D) employee turnover and retention;

10 (E) hiring and training costs;

11 (F) productivity and absenteeism; and

12 (G) the development of emerging indus-
13 tries, including those that engage their
14 workforces through technology; and

15 (3) describes the methodology used to generate
16 the information in the report.

17 **SEC. 303. SEVERABILITY.**

18 If any provision of this Act or the application thereof
19 to any person or circumstance is held invalid, the remain-
20 der of this Act, or the application of that provision to per-
21 sons or circumstances other than those as to which it is
22 held invalid, is not affected thereby.

1 **SEC. 304. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out the provisions of this
4 Act and the amendments made by this Act.

5 **SEC. 305. RULE OF CONSTRUCTION.**

6 The amendments made under this Act shall not be
7 construed to amend section 274A of the Immigration and
8 Nationality Act (8 U.S.C. 1324a).

9 **SEC. 306. RULE OF CONSTRUCTION.**

10 The amendments made by this Act shall not be con-
11 strued to affect the jurisdictional standards of the Na-
12 tional Labor Relations Board, including any standards
13 that measure the size of a business with respect to reve-
14 nues, that are used to determine whether an industry is
15 affecting commerce for purposes of determining coverage
16 under the National Labor Relations Act (29 U.S.C. 151
17 et seq.).

18 **SEC. 307. RULE OF CONSTRUCTION.**

19 Nothing in this Act or the amendments made by this
20 Act shall be construed to affect the privacy of employees
21 with respect to voter lists provided to labor organizations
22 by employers pursuant to elections directed by the Board.

23 **SEC. 308. RULE OF CONSTRUCTION.**

24 The amendments made under this Act shall not be
25 construed to affect the definitions of “employer” or “em-
26 ployee” under the laws of any State that govern the wages,

1 work hours, workers' compensation, or unemployment in-
2 surance of employees.

3 **SEC. 309. GAO REPORT.**

4 (a) IN GENERAL.—The Comptroller General, through
5 the Government Accountability Office, shall one year after
6 the date of enactment of this Act commence a study on
7 the impact of Section 101(a) and Section 101(b) of this
8 Act regarding—

9 (1) the effect on coverage of employees under of
10 the National Labor Relations Act, and the impact
11 from such change in coverage, on their capacity in
12 various sectors to form unions and collectively bar-
13 gain as a means to improve wages, benefits, work-
14 place safety, and other working conditions; and

15 (2) the effect on employers and other enter-
16 prises regarding the right of employees to organize
17 and collectively bargain over wages, benefits, work-
18 place safety, and other working conditions in such
19 sectors.

20 (b) FACTORS.—Such study shall identify, compare,
21 and analyze impacts from changes implicated by Section
22 101(a) and Section 101(b) on—

23 (1) flexibility for employees with respect to
24 hours, shifts, assignments and working arrange-
25 ments;

1 (2) rates of compensation, health care, and em-
2 ployee benefits;

3 (3) resolution of grievances and disputes, in-
4 cluding employers' ability to terminate and employ-
5 ees' right to due process;

6 (4) use of technology or algorithms, including
7 the adoption of new technology and algorithms; and

8 (5) workplace safety and health.

9 (c) STAKEHOLDER INPUT.—In preparing the report,
10 the Government Accountability Office shall gather infor-
11 mation from impacted stakeholders, including various
12 business enterprises and labor organizations. In devel-
13 oping a list of stakeholders, the Government Account-
14 ability Office shall consult with the House Committee on
15 Education and the Workforce and the Senate Committee
16 on Health, Education, Labor, and Pensions.

17 (d) CONGRESSIONAL REPORT.—Six months after the
18 commencement of the study, the Government Account-
19 ability Office shall transmit its findings and report to the
20 Committee on Education and the Workforce of the House
21 of Representatives and the Committee on Health, Edu-
22 cation, Labor, and Pensions of the Senate, and consistent
23 with its policies, make its findings and report available to
24 the public.

1 (e) PRESIDENTIAL CONSIDERATION.—The President,
2 in consultation with the Department of Labor and other
3 agencies as the President deems appropriate, shall, subse-
4 quent to the issuance of such report, consider such find-
5 ings, and within 60 days may recommend that the House
6 of Representatives and the Senate modify section 101(a)
7 or section 101(b), or both or make no recommendations.

8 (f) SENSE OF THE HOUSE OF REPRESENTATIVES.—
9 It is the sense of the House of Representatives that the
10 House of Representatives shall consider whether to accept,
11 reject, or modify any recommendations received under (e),
12 as it deems appropriate.

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