

116TH CONGRESS  
1ST SESSION

# H. R. 2474

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.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2019

Mr. SCOTT of Virginia (for himself, Ms. WILSON of Florida, Mr. LEVIN of Michigan, Ms. JAYAPAL, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. SCHAKOWSKY, Mr. SABLAN, Mr. TAKANO, Mr. CISNEROS, Ms. KAPTUR, Ms. OMAR, Ms. FUDGE, Mr. CARTWRIGHT, Mrs. NAPOLITANO, Ms. NORTON, Ms. MCCOLLUM, Mr. HIGGINS of New York, Mr. POCAN, Mr. KHANNA, Mr. SUOZZI, Ms. ROYBAL-ALLARD, Mr. PALLONE, Ms. HAALAND, Mr. RASKIN, Mr. DESAULNIER, Mr. GARCÍA of Illinois, Mr. RYAN, Mr. ROSE of New York, Ms. DEAN, Mr. BEYER, Mr. DEFazio, Mr. LOWENTHAL, Mr. SIRES, Mr. MCGOVERN, Ms. LEE of California, Mrs. DAVIS of California, Ms. JUDY CHU of California, Mr. SERRANO, Mr. CUMMINGS, Mr. THOMPSON of Mississippi, Mr. ESPAILLAT, Mr. COHEN, Mr. CICILLINE, Mr. LUJÁN, Ms. BONAMICI, Miss RICE of New York, Ms. SHALALA, Mr. NORCROSS, Ms. ADAMS, Mr. TRONE, Mr. HARDER of California, Mr. MICHAEL F. DOYLE of Pennsylvania, Mrs. WATSON COLEMAN, Ms. TLAIB, Mr. MALINOWSKI, Mr. ENGEL, Mr. CASTRO of Texas, Mr. HORSFORD, Mr. GRIJALVA, Ms. MUCARSEL-POWELL, Mr. CARSON of Indiana, Mr. CLAY, Mr. SOTO, Ms. DELAURO, Mr. VEASEY, Mr. GARAMENDI, Mr. COURTNEY, Mr. DELGADO, Mr. KENNEDY, Ms. SÁNCHEZ, Mrs. LAWRENCE, Ms. CLARK of Massachusetts, Ms. WASSERMAN SCHULTZ, Mr. NADLER, Mr. MORELLE, Ms. STEVENS, Ms. PRESSLEY, Mr. RUSH, Mr. GOLDEN, Ms. ESHOO, Ms. VELÁZQUEZ, Mr. GREEN of Texas, Ms. PINGREE, Mr. SMITH of Washington, Mr. LYNCH, Mr. YARMUTH, Mrs. CAROLYN B. MALONEY of New York, Mr. LANGEVIN, Ms. TITUS, Mr. VISCLOSKY, Mr. CLEAVER, Mrs. HAYES, Mr. SHERMAN, Mr. KILDEE, Mrs. CRAIG, Mrs. TRAHAN, Ms. WILD, Mr. LEWIS, Mr. RUIZ, and Mr. NEGUSE) introduced the following bill; which was referred to the Committee on Education and Labor

# 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.**

4       This Act may be cited as the “Protecting the Right  
5 to Organize Act of 2019”.

6 **SEC. 2. FINDINGS.**

7       Congress finds the following:

8           (1) The National Labor Relations Act (29  
9 U.S.C. 151 et seq.) was enacted to encourage the  
10 practice of collective bargaining and to protect the  
11 exercise by workers of full freedom of association in  
12 the workplace. Since its enactment in 1935, tens of  
13 millions of workers have bargained with their em-  
14 ployers over wages, benefits, and other terms and  
15 conditions of employment and have raised the stand-  
16 ard of living for all workers.

17           (2) According to the Bureau of Labor Statis-  
18 tics, union members earn 25.6 percent more than  
19 workers who are not covered by a collective bar-  
20 gaining agreement. Workers who are represented by  
21 a union are 28 percent more likely to be offered

1 health insurance through work and nearly five times  
2 more likely to have defined benefit pensions. The  
3 wage differential is significant for women and people  
4 of color. African-American union members earn 25  
5 percent more than African-American workers who  
6 are not covered by a collective bargaining agreement,  
7 and Latino union members earn 42.6 percent more  
8 than Latino workers who are not covered by a collec-  
9 tive bargaining agreement. Women union members  
10 earn 30 percent more than women who are not cov-  
11 ered by a collective bargaining agreement, and the  
12 wage gap between men and women is much smaller  
13 at workplaces covered by a collective bargaining  
14 agreement because collective bargaining agreements  
15 ensure the same rate is paid to workers for a par-  
16 ticular job without regard to gender. The wage and  
17 benefit gains achieved through collective bargaining  
18 agreements benefit both workers and their commu-  
19 nities.

20 (3) Unions and collective bargaining ensure  
21 that productivity gains are shared by working peo-  
22 ple. The decline in the percentage of workers covered  
23 by collective bargaining has contributed to sky-  
24 rocketing income inequality and wage stagnation for  
25 the average worker.

1           (4) The National Labor Relations Act protects  
2           the right of workers to join together with their co-  
3           workers in concerted activities for their mutual aid  
4           or protection. This protection applies broadly to all  
5           concerted activities by workers aimed at improving  
6           the terms and conditions of their employment or aid-  
7           ing each other in any way, regardless of whether  
8           workers are seeking to form a union or engage in  
9           collective bargaining with their employer.

10           (5) The Act protects the right of workers to  
11           discuss issues like pay and benefits without retalia-  
12           tion or interference by employers. However, the  
13           awareness of workers regarding their rights under  
14           the Act is lacking, due in part to the absence of any  
15           legally required notice informing workers of the  
16           rights and responsibilities under the Act. Many em-  
17           ployers maintain policies that restrict the ability of  
18           workers to discuss workplace issues with each other,  
19           directly contravening these rights. Research shows  
20           that more than one half of workers report that their  
21           employers have policies that prohibit or discourage  
22           workers from discussing pay with their coworkers.  
23           These policies and practices impede workers from  
24           exercising their rights under the Act and impair  
25           their freedom of association at work.

1           (6) Retaliation by employers against workers  
2 who exercise their rights under the National Labor  
3 Relations Act persists at troubling levels. Employers  
4 routinely fire workers for trying to form a union at  
5 their workplace. In one out of three organizing cam-  
6 paigns, one or more workers are discharged for sup-  
7 porting or joining a union.

8           (7) The current remedies are inadequate to  
9 deter employers from violating the National Labor  
10 Relations Act. The remedies and penalties for viola-  
11 tions of the Act are far weaker than for other labor  
12 and employment laws. Unlike other major labor and  
13 employment laws, there are no civil penalties for vio-  
14 lations of the National Labor Relations Act. Work-  
15 ers cannot go to court to pursue relief on their own  
16 and must rely on the National Labor Relations  
17 Board to prosecute their case. Should the Board de-  
18 cline to prosecute for any reason, aggrieved workers  
19 have no other remedy.

20           (8) Unlike orders of other Federal agencies, the  
21 orders of the National Labor Relations Board are  
22 not enforced until the Board seeks enforcement from  
23 a court of appeals. As far back as 1969, the Admin-  
24 istrative Conference of the United States recognized  
25 that the absence of a self-enforcing agency order im-

1 poses wasteful delays in the enforcement of the Na-  
2 tional Labor Relations Act, and recommended that  
3 the Board's orders be made self-enforcing like those  
4 of other agencies. Congress did not act upon this  
5 recommendation, and delays in the Board's enforce-  
6 ment remain a problem undermining the effective-  
7 ness of the Act.

8 (9) Many workers do not currently enjoy the  
9 protections of the National Labor Relations Act be-  
10 cause they are excluded from coverage under the Act  
11 or interpretations of the Act.

12 (10) Too often, workers who choose to form  
13 unions are frustrated when their employers use delay  
14 and other tactics to avoid reaching an initial collec-  
15 tive bargaining agreement. Estimates are that in as  
16 many as half of new organizing campaigns, workers  
17 and their employers fail to reach an initial collective  
18 bargaining agreement.

19 (11) While the National Labor Relations Act  
20 guarantees workers the right to strike, courts have  
21 permitted employers to "permanently replace" work-  
22 ers who exercise their right to strike. This is con-  
23 trary to Congress's intent in enacting the National  
24 Labor Relations Act and has led to confusion among  
25 workers regarding their right to strike.

1           (12) Hearings under section 9 of the National  
2 Labor Relations Act (29 U.S.C. 159) exist to assure  
3 to workers the fullest freedom in exercising the  
4 rights guaranteed by the Act. However, some em-  
5 ployers have abused the representation process of  
6 the National Labor Relations Board to impede work-  
7 ers from freely choosing their own representatives  
8 and exercising their rights under the Act.

9           (13) So-called “right-to-work” laws do not give  
10 any worker the right to a job. While Federal law re-  
11 quires unions to fairly represent all members of a  
12 given bargaining unit, and thereby expend resources  
13 on all unit members, many States’ so-called “right-  
14 to-work” laws prohibit unions from charging all  
15 members for the representation and services that the  
16 unions are legally obliged to render. Section 14(b) of  
17 the National Labor Relations Act (29 U.S.C.  
18 164(b)) must be reformed to permit unions and em-  
19 ployers to mutually agree that payment of fair share  
20 fees shall be a condition of employment following ini-  
21 tial hiring.

22           (14) Restrictions on so-called “secondary boy-  
23 cotts” and “recognitional picketing” unduly impede  
24 workers’ ability to engage in peaceful conduct and  
25 expression. Workers must be free to act in solidarity

1 with workers in other workplaces in order to improve  
2 labor standards and achieve other lawful ends for  
3 mutual aid or protection.

4 (15) In order to make the right to collective  
5 bargaining and freedom of association in the work-  
6 place a reality for workers, the National Labor Rela-  
7 tions Act must be strengthened.

8 **SEC. 3. PURPOSES.**

9 The purposes of this Act are—

10 (1) to strengthen protections for workers en-  
11 gaged in collective bargaining to improve their  
12 wages, hours, and terms and conditions of employ-  
13 ment;

14 (2) to expand coverage under the National  
15 Labor Relations Act (29 U.S.C. 151 et seq.) to more  
16 workers;

17 (3) to provide a process by which workers and  
18 employers can successfully negotiate an initial collec-  
19 tive bargaining agreement;

20 (4) to provide a stronger deterrent and fairer  
21 remedies for workers who face retaliation, discrimi-  
22 nation, or other interference with their legal rights  
23 to act concertedly, join a union, or engage in collec-  
24 tive bargaining;



1           (5) to broadly protect workers’ right to engage  
2 in concerted activities for mutual aid or protection;

3           (6) to streamline the enforcement procedures of  
4 the National Labor Relations Board to provide for  
5 more timely and effective enforcement of the law;

6           (7) to safeguard the right to strike by prohib-  
7 iting “permanent replacement” of striking workers;

8           (8) to repeal specific prohibitions on collective  
9 action and peaceful expression;

10          (9) to permit fair share fee arrangements in  
11 order to promote workers’ freedom of association  
12 and encourage the practice of collective bargaining;

13          (10) to improve the purchasing power of wage  
14 earners in industry;

15          (11) to promote the stabilization of fair wage  
16 rates and humane working conditions within and be-  
17 tween industries; and

18          (12) to redress the inequality of bargaining  
19 power between workers and employers.

20 **SEC. 4. AMENDMENTS TO THE NATIONAL LABOR RELA-**  
21 **TIONS ACT.**

22 (a) DEFINITIONS.—

23 (1) JOINT EMPLOYER.—Section 2(2) of the Na-  
24 tional Labor Relations Act (29 U.S.C. 152(2)) is  
25 amended by adding at the end the following: “Two

1 or more persons shall be employers with respect to  
2 an employee if each such person codetermines or  
3 shares control over the employee's essential terms  
4 and conditions of employment. In determining  
5 whether such control exists, the Board or a court of  
6 competent jurisdiction shall consider as relevant di-  
7 rect control and indirect control over such terms and  
8 conditions, reserved authority to control such terms  
9 and conditions, and control over such terms and con-  
10 ditions exercised by a person in fact: *Provided*, That  
11 nothing herein precludes a finding that indirect or  
12 reserved control standing alone can be sufficient  
13 given specific facts and circumstances.”.

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

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

1           “(B) the service is performed outside the  
2           usual course of the business of the employer;  
3           and

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

8           (3) SUPERVISOR.—Section 2(11) of the Na-  
9           tional Labor Relations Act (29 U.S.C. 152(11)) is  
10          amended—

11           (A) by inserting “and for a majority of the  
12           individual’s worktime” after “interest of the  
13           employer”;

14           (B) by striking “assign,”; and

15           (C) by striking “or responsibly to direct  
16           them,”.

17          (b) APPOINTMENT.—Section 4(a) of the National  
18          Labor Relations Act (29 U.S.C. 154(a)) is amended by  
19          striking “, or for economic analysis”.

20          (c) UNFAIR LABOR PRACTICES.—Section 8 of the  
21          National Labor Relations Act (29 U.S.C. 158) is amend-  
22          ed—

23           (1) in subsection (a)—

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

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

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

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

7 “(B) to discriminate against an employee  
8 who is working or has unconditionally offered to  
9 return to work for the employer because the  
10 employee supported or participated in such a  
11 strike.”;

12 (2) in subsection (b)—

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

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

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

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

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

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

6 (4) in subsection (d)—

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

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

13 (C) by striking “The duties imposed” and  
14 inserting “(2) The duties imposed”;

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

18 (E) by striking “section 8(d)(1)” and in-  
19 serting “paragraph (1)(A)”;

20 (F) by striking “section 8(d)(3)” and in-  
21 serting “paragraph (1)(C)” in each place it ap-  
22 pears;

23 (G) by striking “section 8(d)(4)” and in-  
24 serting “paragraph (1)(D)”;

25 (H) by adding at the end the following:

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

5           “(A) Not later than 10 days after receiving a  
6 written request for collective bargaining from an in-  
7 dividual or labor organization that has been newly  
8 recognized or certified as a representative as defined  
9 in section 9(a), or within such further period as the  
10 parties agree upon, the parties shall meet and com-  
11 mence to bargain collectively and shall make every  
12 reasonable effort to conclude and sign a collective  
13 bargaining agreement.

14           “(B) If after the expiration of the 90-day pe-  
15 riod beginning on the date on which bargaining is  
16 commenced, or such additional period as the parties  
17 may agree upon, the parties have failed to reach an  
18 agreement, either party may notify the Federal Me-  
19 diation and Conciliation Service of the existence of  
20 a dispute and request mediation. Whenever such a  
21 request is received, it shall be the duty of the Service  
22 promptly to put itself in communication with the  
23 parties and to use its best efforts, by mediation and  
24 conciliation, to bring them to agreement.

1           “(C) If after the expiration of the 30-day period  
2 beginning on the date on which the request for me-  
3 diation is made under subparagraph (B), or such ad-  
4 ditional period as the parties may agree upon, the  
5 Service is not able to bring the parties to agreement  
6 by conciliation, the Service shall refer the dispute to  
7 a tripartite arbitration panel established in accord-  
8 ance with such regulations as may be prescribed by  
9 the Service, with one member selected by the labor  
10 organization, one member selected by the employer,  
11 and one neutral member mutually agreed to by the  
12 parties. A majority of the tripartite arbitration panel  
13 shall render a decision settling the dispute and such  
14 decision shall be binding upon the parties for a pe-  
15 riod of two years, unless amended during such pe-  
16 riod by written consent of the parties. Such decision  
17 shall be based on—

18                   “(i) the employer’s financial status and  
19                   prospects;

20                   “(ii) the size and type of the employer’s  
21                   operations and business;

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

23                   “(iv) the employees’ ability to sustain  
24                   themselves, their families, and their dependents

1 on the wages and benefits they earn from the  
2 employer; and

3 “(v) the wages and benefits other employ-  
4 ers in the same business provide their employ-  
5 ees.”;

6 (5) by amending subsection (e) to read as fol-  
7 lows:

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

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

20 “(2) to coerce an employee into undertaking or  
21 promising not to pursue, bring, join, litigate, or sup-  
22 port any kind of joint, class, or collective claim aris-  
23 ing from or relating to the employment of such em-  
24 ployee; or



1           “(3) to retaliate or threaten to retaliate against  
2           an employee for refusing to undertake or promise  
3           not to pursue, bring, join, litigate, or support any  
4           kind of joint, class, or collective claim arising from  
5           or relating to the employment of such employee:  
6           *Provided*, That any agreement that violates this sub-  
7           section or results from a violation of this subsection  
8           shall be to such extent unenforceable and void: *Pro-*  
9           *vided further*, That this subsection shall not apply to  
10          any agreement embodied in or expressly permitted  
11          by a contract between an employer and a labor orga-  
12          nization.”;

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

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

17          “(h)(1) The Board shall promulgate regulations re-  
18          quiring each employer to post and maintain, in con-  
19          spicuous places where notices to employees and applicants  
20          for employment are customarily posted both physically and  
21          electronically, a notice setting forth the rights and protec-  
22          tions afforded employees under this Act. The Board shall  
23          make available to the public the form and text of such  
24          notice. The Board shall promulgate regulations requiring  
25          employers to notify each new employee of the information

1 contained in the notice described in the preceding two sen-  
2 tences.

3 “(2) Whenever the Board directs an election under  
4 section 9(c) or approves an election agreement, the em-  
5 ployer of employees in the bargaining unit shall, not later  
6 than two business days after the Board directs such elec-  
7 tion or approves such election agreement, provide a voter  
8 list to a labor organization that has petitioned to represent  
9 such employees. Such voter list shall include the names  
10 of all employees in the bargaining unit and such employ-  
11 ees’ home addresses, work locations, shifts, job classifica-  
12 tions, and, if available to the employer, personal landline  
13 and mobile telephone numbers, and work and personal  
14 email addresses. Not later than nine months after the date  
15 of enactment of the Protecting the Right to Organize Act  
16 of 2019, the Board shall promulgate regulations imple-  
17 menting the requirements of this paragraph.”.

18 (d) REPRESENTATIVES AND ELECTIONS.—Section 9  
19 of the National Labor Relations Act (29 U.S.C. 159) is  
20 amended—

21 (1) in subsection (c)—

22 (A) by amending paragraph (1) to read as  
23 follows:

24 “(1) Whenever a petition shall have been filed, in ac-  
25 cordance with such regulations as may be prescribed by

1 the Board, by an employee or group of employees or any  
2 individual or labor organization acting in their behalf al-  
3 leging that a substantial number of employees (i) wish to  
4 be represented for collective bargaining and that their em-  
5 ployer declines to recognize their representative as the rep-  
6 resentative defined in section 9(a), or (ii) assert that the  
7 individual or labor organization, which has been certified  
8 or is being recognized by their employer as the bargaining  
9 representative, is no longer a representative as defined in  
10 section 9(a), the Board shall investigate such petition and  
11 if it has reasonable cause to believe that a question of rep-  
12 resentation affecting commerce exists shall provide for an  
13 appropriate hearing upon due notice. Such hearing may  
14 be conducted by an officer or employee of the regional of-  
15 fice, who shall not make any recommendations with re-  
16 spect thereto. If the Board finds upon the record of such  
17 hearing that such a question of representation exists, it  
18 shall direct an election by secret ballot and shall certify  
19 the results thereof. No employer shall have standing as  
20 a party or to intervene in any representation proceeding  
21 under this section.”;

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

1                   (C) by redesignating paragraphs (4) and  
2                   (5) as paragraphs (6) and (7), respectively;

3                   (D) by inserting after paragraph (3) the  
4                   following:

5           “(4) If the Board finds that, in an election under  
6 paragraph (1), a majority of the valid votes cast in a unit  
7 appropriate for purposes of collective bargaining have been  
8 cast in favor of representation by the labor organization,  
9 the Board shall certify the labor organization as the rep-  
10 resentative of the employees in such unit and shall issue  
11 an order requiring the employer of such employees to col-  
12 lectively bargain with the labor organization in accordance  
13 with section 8(d). This order shall be deemed an order  
14 under section 10(c) of this Act, without need for a deter-  
15 mination of an unfair labor practice.

16           “(5)(A) If the Board finds that, in an election under  
17 paragraph (1), a majority of the valid votes cast in a unit  
18 appropriate for purposes of collective bargaining have not  
19 been cast in favor of representation by the labor organiza-  
20 tion, the Board shall dismiss the petition, subject to sub-  
21 paragraphs (B) and (C).

22           “(B) In any case in which a majority of the valid  
23 votes cast in a unit appropriate for purposes of collective  
24 bargaining have not been cast in favor of representation  
25 by the labor organization and the Board determines that

1 the election should be set aside because the employer has  
2 committed a violation of this Act or otherwise interfered  
3 with a fair election, and the employer has not dem-  
4 onstrated that the violation or other interference is un-  
5 likely to have affected the outcome of the election, the  
6 Board shall, without ordering a new election, certify the  
7 labor organization as the representative of the employees  
8 in such unit and issue an order requiring the employer  
9 to bargain with the labor organization in accordance with  
10 section 8(d) if, at any time during the period beginning  
11 one year preceding the date of the commencement of the  
12 election and ending on the date upon which the Board  
13 makes the determination of a violation or other inter-  
14 ference, a majority of the employees in the bargaining unit  
15 have signed authorizations designating the labor organiza-  
16 tion as their collective bargaining representative.

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

23 (E) by inserting after paragraph (7), as so  
24 redesignated, the following:

25 “(8) Except under extraordinary circumstances—

1           “(A) a pre-election hearing under this sub-  
2           section shall begin not later than eight days after a  
3           notice of such hearing is served on the labor organi-  
4           zation; and

5           “(B) a post-election hearing under this sub-  
6           section shall begin not later than 14 days after the  
7           filing of objections, if any.”; and

8           (2) in subsection (d), by striking “(e) or” and  
9           inserting “(d) or”.

10          (e) PREVENTION OF UNFAIR LABOR PRACTICES.—

11          Section 10(c) of the National Labor Relations Act (29  
12          U.S.C. 160(c)) is amended by striking “suffered by him”  
13          and inserting “suffered by such employee: *Provided fur-*  
14          *ther*, That if the Board finds that an employer has dis-  
15          criminated against an employee in violation of paragraph  
16          (3) or (4) of section 8(a) or has committed a violation  
17          of section 8(a) that results in the discharge of an employee  
18          or other serious economic harm to an employee, the Board  
19          shall award the employee back pay without any reduction  
20          (including any reduction based on the employee’s interim  
21          earnings or failure to earn interim earnings), front pay  
22          (when appropriate), consequential damages, and an addi-  
23          tional amount as liquidated damages equal to two times  
24          the amount of damages awarded: *Provided further*, no re-  
25          lief under this subsection shall be denied on the basis that

1 the employee is, or was during the time of relevant em-  
2 ployment or during the back pay period, an unauthorized  
3 alien as defined in section 274A(h)(3) of the Immigration  
4 and Nationality Act (8 U.S.C. 1324a(h)(3)) or any other  
5 provision of Federal law relating to the unlawful employ-  
6 ment of aliens”.

7 (f) ENFORCING COMPLIANCE WITH ORDERS OF THE  
8 BOARD.—

9 (1) IN GENERAL.—Section 10 of the National  
10 Labor Relations Act (29 U.S.C. 160) is further  
11 amended—

12 (A) by striking subsection (e);

13 (B) by redesignating subsection (d) as sub-  
14 section (e);

15 (C) by inserting after subsection (c) the  
16 following:

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

22 “(2) Any person who fails or neglects to obey an  
23 order of the Board shall forfeit and pay to the Board a  
24 civil penalty of not more than \$10,000 for each violation,  
25 which shall accrue to the Board and may be recovered in

1 a civil action brought by the Board to the district court  
2 of the United States in which the unfair labor practice  
3 or other subject of the order occurred, or in which such  
4 person or entity resides or transacts business. No action  
5 by the Board under this paragraph may be made until  
6 30 days following the issuance of an order. Each separate  
7 violation of such an order shall be a separate offense, ex-  
8 cept that, in the case of a violation in which a person fails  
9 to obey or neglects to obey a final order of the Board,  
10 each day such failure or neglect continues shall be deemed  
11 a separate offense.

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

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

23 “(B) enjoin such person or entity, officers,  
24 agents, or representatives to obedience to the  
25 same.”;



1 (D) in subsection (f)—

2 (i) by striking “proceed in the same  
3 manner as in the case of an application by  
4 the Board under subsection (e) of this sec-  
5 tion,” and inserting “proceed as provided  
6 under paragraph (2) of this subsection”;

7 (ii) by striking “Any” and inserting  
8 the following:

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

11 (iii) by adding at the end the fol-  
12 lowing:

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

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

18 (E) in subsection (g), by striking “sub-  
19 section (e) or (f) of this section” and inserting  
20 “subsection (d) or (f)”.

21 (2) CONFORMING AMENDMENT.—Section 18 of  
22 the National Labor Relations Act (29 U.S.C. 168)  
23 is amended by striking “ section 10(e) or (f)” and  
24 inserting “subsection (d) or (f) of section 10”.

1 (g) INJUNCTIONS AGAINST UNFAIR LABOR PRAC-  
2 TICES INVOLVING DISCHARGE OR OTHER SERIOUS ECO-  
3 NOMIC HARM.—Section 10 of the National Labor Rela-  
4 tions Act (29 U.S.C. 160) is amended—

5 (1) in subsection (j)—

6 (A) by striking “The Board” and inserting

7 “(1) The Board”; and

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

9 “(2) Notwithstanding subsection (m), whenever it is  
10 charged that an employer has engaged in an unfair labor  
11 practice within the meaning of paragraph (1) or (3) of  
12 section 8(a) that significantly interferes with, restrains, or  
13 coerces employees in the exercise of the rights guaranteed  
14 under section 7, or involves discharge or other serious eco-  
15 nomic harm to an employee, the preliminary investigation  
16 of such charge shall be made forthwith and given priority  
17 over all other cases except cases of like character in the  
18 office where it is filed or to which it is referred. If, after  
19 such investigation, the officer or regional attorney to  
20 whom the matter may be referred has reasonable cause  
21 to believe such charge is true and that a complaint should  
22 issue, such officer or attorney shall bring a petition for  
23 appropriate temporary relief or restraining order as set  
24 forth in paragraph (1). The district court shall grant the  
25 relief requested unless the court concludes that there is

1 no reasonable likelihood that the Board will succeed on  
2 the merits of the Board’s claim.”; and

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

4 (h) PENALTIES.—

5 (1) IN GENERAL.—Section 12 of the National  
6 Labor Relations Act (29 U.S.C. 162) is amended—

7 (A) by striking “**SEC. 12.** Any person” and  
8 inserting the following:

9 “**SEC. 12. PENALTIES.**

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

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

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

18 “(1) state the findings of fact supporting such  
19 determination;

20 “(2) issue and cause to be served on such em-  
21 ployer an order requiring that such employer comply  
22 with section 8(h) or regulations issued thereunder;  
23 and

24 “(3) impose a civil penalty in an amount deter-  
25 mined appropriate by the Board, except that in no

1 case shall the amount of such penalty exceed \$500  
2 for each such violation.

3 “(c) VIOLATIONS CAUSING SERIOUS ECONOMIC  
4 HARM TO EMPLOYEES.—

5 “(1) IN GENERAL.—Any employer who commits  
6 an unfair labor practice within the meaning of para-  
7 graph (3) or (4) of section 8(a), or a violation of  
8 section 8(a) that results in the discharge of an em-  
9 ployee or other serious economic harm to an em-  
10 ployee, 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 that  
13 the Board shall double the amount of such penalty,  
14 to an amount not to exceed \$100,000, in any case  
15 where the employer has within the preceding five  
16 years committed another such violation.

17 “(2) CONSIDERATIONS.—In determining the  
18 amount of any civil penalty under this subsection,  
19 the Board shall consider—

20 “(A) the gravity of the unfair labor prac-  
21 tice;

22 “(B) the impact of the unfair labor prac-  
23 tice on the charging party, on other persons  
24 seeking to exercise rights guaranteed by this  
25 Act, and on the public interest; and

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

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

13                   “(d) RIGHT TO CIVIL ACTION.—

14                   “(1) IN GENERAL.—Any person who is injured  
15 by reason of a violation of paragraph (1) or (3) of  
16 section 8(a) may, after 60 days following the filing  
17 of a charge with the Board alleging an unfair labor  
18 practice, bring a civil action in the appropriate dis-  
19 trict court of the United States against the employer  
20 within 90 days after the expiration of the 60-day pe-  
21 riod or the date the Board notifies the person that  
22 no complaint shall issue, whichever occurs earlier,  
23 provided that the Board has not filed a petition  
24 under section 10(j) of this Act prior to the expira-  
25 tion of the 60-day period. No relief under this sub-

1 section shall be denied on the basis that the em-  
2 ployee is, or was during the time of relevant employ-  
3 ment or during the back pay period, an unauthor-  
4 ized alien as defined in section 274A(h)(3) of the  
5 Immigration and Nationality Act (8 U.S.C.  
6 1324a(h)(3)) or any other provision of Federal law  
7 relating to the unlawful employment of aliens.

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

10 “(A) back pay without any reduction, in-  
11 cluding any reduction based on the employee’s  
12 interim earnings or failure to earn interim earn-  
13 ings;

14 “(B) front pay (when appropriate);

15 “(C) consequential damages;

16 “(D) an additional amount as liquidated  
17 damages equal to two times the cumulative  
18 amount of damages awarded under subpara-  
19 graphs (A) through (C);

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

22 “(F) any other relief authorized by section  
23 706(g) of the Civil Rights Act of 1964 (42  
24 U.S.C. 2000e–5(g)) or by section 1977A(b) of  
25 the Revised Statutes (42 U.S.C. 1981a(b)).

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

6           “(4) PUNITIVE DAMAGES.—In awarding puni-  
7           tive damages under paragraph (2)(E), the court  
8           shall consider—

9                   “(A) the gravity of the unfair labor prac-  
10                  tice;

11                   “(B) the impact of the unfair labor prac-  
12                  tice on the charging party, on other persons  
13                  seeking to exercise rights guaranteed by this  
14                  Act, and on the public interest; and

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

16           (2) CONFORMING AMENDMENTS.—Section  
17           10(b) of the National Labor Relations Act (29  
18           U.S.C. 160(b)) is amended—

19                   (A) by striking “six months” and inserting  
20                  “180 days”; and

21                   (B) by striking “the six-month period” and  
22                  inserting “the 180-day period”.

23           (i) LIMITATIONS.—Section 13 of the National Labor  
24           Relations Act (29 U.S.C. 163) is amended by striking the  
25           period at the end and inserting the following: “: *Provided*,



1 That the duration, scope, frequency, or intermittence of  
 2 any strike or strikes shall not render such strike or strikes  
 3 unprotected or prohibited.”.

4 (j) FAIR SHARE AGREEMENTS PERMITTED.—Section  
 5 14(b) of the National Labor Relations Act (29 U.S.C.  
 6 164(b)) is amended by striking the period at the end and  
 7 inserting the following: “: *Provided*, That collective bar-  
 8 gaining agreements providing that all employees in a bar-  
 9 gaining unit shall contribute fees to a labor organization  
 10 for the cost of representation, collective bargaining, con-  
 11 tract enforcement, and related expenditures as a condition  
 12 of employment shall be valid and enforceable notwith-  
 13 standing any State or Territorial law.”.

14 **SEC. 5. AMENDMENTS TO THE LABOR MANAGEMENT RELA-**  
 15 **TIONS ACT, 1947.**

16 The Labor Management Relations Act, 1947 is  
 17 amended—

18 (1) in section 213(a) (29 U.S.C. 183(a)), by  
 19 striking “clause (A) of the last sentence of section  
 20 8(d) (which is required by clause (3) of such section  
 21 8(d)), or within 10 days after the notice under  
 22 clause (B)” and inserting “section 8(d)(2)(A) of the  
 23 National Labor Relations Act (which is required by  
 24 section 8(d)(1)(C) of such Act), or within 10 days

1 after the notice under section 8(d)(2)(B) of such  
2 Act”; and

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

4 **SEC. 6. AMENDMENTS TO THE LABOR-MANAGEMENT RE-**  
5 **PORTING AND DISCLOSURE ACT OF 1959.**

6 Section 203(c) of the Labor-Management Reporting  
7 and Disclosure Act of 1959 (29 U.S.C. 433(c)) is amended  
8 by striking the period at the end and inserting the fol-  
9 lowing “: *Provided*, That this subsection shall not exempt  
10 from the requirements of this section any arrangement or  
11 part of an arrangement in which a party agrees, for an  
12 object described in subsection (b)(1), to plan or conduct  
13 employee meetings; train supervisors or employer rep-  
14 resentatives to conduct meetings; coordinate or direct ac-  
15 tivities of supervisors or employer representatives; estab-  
16 lish or facilitate employee committees; identify employees  
17 for disciplinary action, reward, or other targeting; or draft  
18 or revise employer personnel policies, speeches, presen-  
19 tations, or other written, recorded, or electronic commu-  
20 nications to be delivered or disseminated to employees.”.

21 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated such sums  
23 as may be necessary to carry out the provisions of this  
24 Act, including any amendments made by this Act.

○