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2D SESSION

S. 4833

To prohibit certain uses of automated decision systems by employers, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2026

Mr. MARKEY (for himself, Mr. SCHATZ, Mr. SANDERS, Ms. BALDWIN, Ms. WARREN, Mr. BLUMENTHAL, and Mr. FETTERMAN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prohibit certain uses of automated decision systems by
employers, 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 “No Robot Bosses Act”.

5 **SEC. 2. DEFINITIONS.**

6 For purposes of this Act:

7 (1) **ADVERSE WORK ACTION.**—The term “ad-
8 verse work action”, with respect to a covered indi-
9 vidual, means a change by the employer of the cov-

1 ered individual in the compensation, terms, condi-
2 tions, or privileges of the job of the covered indi-
3 vidual that puts the covered individual in a materi-
4 ally adverse position than prior to the change, in-
5 cluding a termination, reduction in benefits, discipli-
6 nary action, demotion, transfer, imposition of a work
7 schedule more burdensome to the covered individual,
8 reduction of scheduled hours, adjustment in the abil-
9 ity for a promotion, or other modifications to the
10 compensation, terms, conditions, or privileges of the
11 job of the covered individual.

12 (2) APPLICANT.—The term “applicant”, with
13 respect to an employer, means an individual who ap-
14 plies, or applied, to be employed by, or otherwise
15 perform work for remuneration for, the employer.

16 (3) AUTOMATED DECISION SYSTEM.—

17 (A) IN GENERAL.—The term “automated
18 decision system” means any system, software,
19 or process (including one derived from machine
20 learning, statistics, or other data processing or
21 artificial intelligence techniques and excluding
22 passive computing infrastructure) that uses
23 computation to produce a prediction, score,
24 ranking, recommendation, decision, evaluation,
25 metric, conclusion, inference, or profile.

1 (B) PASSIVE COMPUTING INFRASTRUC-
 2 TURE.—For purposes of this paragraph, the
 3 term “passive computing infrastructure” means
 4 any intermediary technology that does not influ-
 5 ence or determine the outcome of a decision,
 6 make or aid in a decision (including through
 7 evaluations, metrics, or scoring), inform policy
 8 implementation, or collect data or observations,
 9 including web hosting, domain registration, net-
 10 working, caching, data storage, or cybersecu-
 11 rity.

12 (4) COVERED INDIVIDUAL.—The term “covered
 13 individual”, with respect to an employer, means an
 14 individual—

15 (A) who is employed by, or otherwise per-
 16 forms work for remuneration for, the employer,
 17 including such an individual who is—

18 (i) any individual performing work for
 19 remuneration for an employer described in
 20 clauses (i)(I) and (ii) of paragraph (9)(A);

21 (ii) any individual performing work
 22 for remuneration for an entity described in
 23 clauses (i)(II) and (ii) of paragraph (9)(A);

24 (iii) any individual performing work
 25 for remuneration for an employing office

described in clauses (i)(III) and (ii) of paragraph (9)(A);

(iv) any individual performing work for remuneration for an employing office described in clauses (i)(IV) and (ii) of paragraph (9)(A); or

(v) any individual performing work for remuneration for an employing agency described in clauses (i)(V) and (ii) of paragraph (9)(A) who is not covered under clause (iv); or

(B) who is an applicant with respect to the employer.

(5) DEVELOPER.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “developer”, with respect to an automated decision system that is intended or reasonably likely to be used by an employer to make a work-related decision, means any person that designs, codes, customizes, produces, or substantially modifies the automated decision system, including such a person that is the employer.

(B) ASSUMPTION OF RESPONSIBILITY BY EMPLOYER.—If an employer assumes the re-

1 sponsibility of a person that would otherwise be
2 a developer of an automated decision system as
3 described in section 5(b)(2)(B), the person shall
4 not be considered a developer for purposes of
5 the use by the employer of the automated deci-
6 sion system and the employer shall be consid-
7 ered a developer for such purposes.

8 (C) RULE OF CONSTRUCTION.—Subpara-
9 graph (A) or (B) shall not be interpreted to
10 mean that an employer may not also be a devel-
11 oper described in such subparagraph or that
12 such a developer may not also be an employer.

13 (6) DIRECTOR.—The term “Director” means
14 the Director of the Fairness and Transparency Of-
15 fice established under section 6.

16 (7) DISPARATE IMPACT.—

17 (A) IN GENERAL.—The term “disparate
18 impact” means an unjustified differential effect
19 on an individual or group of individuals on the
20 basis of an actual or perceived protected char-
21 acteristic.

22 (B) UNJUSTIFIED DIFFERENTIAL EF-
23 FECT.—For purposes of subparagraph (A), with
24 respect to the action, policy, or practice of an
25 employer, a differential effect is unjustified if—

1 (i) the developer or employer fails to
2 demonstrate that such action, policy, or
3 practice causing the differential effect is
4 necessary to achieve a substantial, legiti-
5 mate, and nondiscriminatory interest; or

6 (ii) in the event the employer dem-
7 onstrates such interest, an alternative ac-
8 tion, policy, or practice could serve such in-
9 terest with less differential effect.

10 (C) APPLICATION TO AUTOMATED DECI-
11 SION SYSTEM.—With respect to demonstrating
12 that an automated decision system causes or
13 contributes to a differential effect, the auto-
14 mated decision system is presumed to be not
15 separable for analysis and may be analyzed ho-
16 listically as a single action, policy, or practice,
17 unless the developer or employer proves that
18 the automated decision system is separable by
19 a preponderance of the evidence.

20 (8) EGREGIOUS MISCONDUCT.—The term
21 “egregious misconduct”, with respect to a covered
22 individual, means deliberate or grossly negligent con-
23 duct that endangers the safety or well-being of the
24 covered individual, co-workers of the covered indi-
25 vidual, customers, or other persons, including dis-

1 crimination against or harassment of co-workers,
2 customers, or other persons.

3 (9) EMPLOYER.—

4 (A) IN GENERAL.—The term “employer”
5 means any person who is—

6 (i)(I) a covered employer who is not
7 described in any other subclause of this
8 clause;

9 (II) an entity employing a State em-
10 ployee described in section 304(a) of the
11 Government Employee Rights Act of 1991
12 (42 U.S.C. 2000e–16c(a));

13 (III) an employing office, as defined
14 in section 101 of the Congressional Ac-
15 countability Act of 1995 (2 U.S.C. 1301);

16 (IV) an employing office, as defined in
17 section 411(c) of title 3, United States
18 Code; or

19 (V) an employing agency covered
20 under subchapter V of chapter 63 of title
21 5, United States Code; and

22 (ii) engaged in commerce (including
23 government), or an industry or activity af-
24 fecting commerce (including government).

(B) COVERED EMPLOYER.—In subparagraph (A), the term “covered employer”—

(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs, or otherwise engages for the performance of work for remuneration, 11 or more covered individuals;

(ii) includes—

(I) any person who acts, directly or indirectly, in the interest of a covered employer in relation to any individual performing work for remuneration for such covered employer;

(II) any successor in interest of a covered employer;

(III) any public agency; and

(IV) the Government Accountability Office and the Library of Congress; and

(iii) does not include any labor organization or worker advocacy organization (other than when a labor organization or worker advocacy organization is acting as an employer) or anyone acting in the ca-

1 pacity of officer or agent of such labor or-
 2 ganization or worker advocacy organiza-
 3 tion.

4 (C) PUBLIC AGENCY.—For purposes of
 5 this paragraph, a public agency shall be consid-
 6 ered to be a person engaged in commerce or in
 7 an industry or activity affecting commerce.

8 (D) DEFINITIONS.—For purposes of this
 9 paragraph, the terms “commerce”, “person”,
 10 and “public agency” have the meanings given
 11 the terms in section 3 of the Fair Labor Stand-
 12 ards Act of 1938 (29 U.S.C. 203).

13 (10) GOVERNMENT ENTITY.—The term “gov-
 14 ernment entity” means—

15 (A) a Federal agency (as such term is de-
 16 fined in section 3371 of title 5, United States
 17 Code);

18 (B) a State or political subdivision thereof;

19 (C) any agency, authority, or instrumen-
 20 tality of a State or political subdivision thereof;
 21 or

22 (D) a Tribal government or political sub-
 23 division thereof.

24 (11) INDIAN TRIBE.—The term “Indian Tribe”
 25 means any Indian or Alaska Native tribe, band, na-

1 tion, pueblo, village, community, component band, or
2 component reservation individually identified (includ-
3 ing parenthetically) in the list published most re-
4 cently as of the date of enactment of this Act pursu-
5 ant to section 104 of the Federally Recognized In-
6 dian Tribe List Act of 1994 (25 U.S.C. 5131).

7 (12) LABOR ORGANIZATION.—The term “labor
8 organization” has the meaning given the term in
9 section 2(5) of the National Labor Relations Act (29
10 U.S.C. 152(5)), except that such term shall also in-
11 clude—

12 (A) any organization composed of labor or-
13 ganizations, such as a labor union federation or
14 a State or municipal labor body; and

15 (B) any organization which would be in-
16 cluded in the definition for such term under
17 such section 2(5) but for the fact that the orga-
18 nization represents—

19 (i) individuals employed by the United
20 States, any wholly owned Government cor-
21 poration, any Federal Reserve Bank, or
22 any State or political subdivision thereof;

23 (ii) individuals employed by persons
24 subject to the Railway Labor Act (45
25 U.S.C. 151 et seq.); or

1 (iii) individuals employed as agricul-
2 tural laborers.

3 (13) PERSONAL DATA.—The term “personal
4 data”—

5 (A) means information that identifies or is
6 linked or reasonably linkable, alone or in com-
7 bination with other information, to an indi-
8 vidual or an individual’s device; and

9 (B) includes derived data and unique per-
10 sistent identifiers.

11 (14) PREDISPUTE ARBITRATION AGREEMENT.—
12 The term “predispute arbitration agreement” means
13 any agreement to arbitrate a dispute that has not
14 yet arisen at the time of the making of the agree-
15 ment.

16 (15) PREDISPUTE JOINT-ACTION WAIVER.—The
17 term “predispute joint-action waiver” means an
18 agreement, whether or not part of a predispute arbi-
19 tration agreement, that would prohibit, or waive the
20 right of, one of the parties to the agreement to par-
21 ticipate in a joint, class, or collective action in a ju-
22 dicial, arbitral, administrative, or other forum, con-
23 cerning a dispute that has not yet arisen at the time
24 of the making of the agreement.

1 (16) PROTECTED CHARACTERISTIC.—The term
2 “protected characteristic” means any of the fol-
3 lowing actual or perceived traits of an individual or
4 group of individuals:

5 (A) Race.

6 (B) Color.

7 (C) Ethnicity.

8 (D) National origin, nationality, or immi-
9 gration status.

10 (E) Religion.

11 (F) Sex (including a sex stereotype, preg-
12 nancy, childbirth, or a related medical condi-
13 tion, sexual orientation or gender identity, and
14 sex characteristics, including intersex traits).

15 (G) Disability.

16 (H) Limited English proficiency.

17 (I) Biometric information.

18 (J) Familial or marital status.

19 (K) Source of income.

20 (L) Income level (not including the ability
21 to pay for a specific good or service being of-
22 fered).

23 (M) Age.

24 (N) Veteran status.

1 (O) Genetic information or medical condi-
2 tions.

3 (P) Any other classification protected by
4 Federal law.

5 (17) SECRETARY.—The term “Secretary”
6 means the Secretary of Labor.

7 (18) STATE.—The term “State” means each of
8 the several States of the United States, the District
9 of Columbia, or any territory or possession of the
10 United States.

11 (19) STATE ATTORNEY GENERAL.—The term
12 “State attorney general” means—

13 (A) with respect to a State, the attorney
14 general or chief law enforcement officer of the
15 State, or another official or agency designated
16 by the State to bring civil actions on behalf of
17 the State or the residents of the State; and

18 (B) with respect to a Tribal government,
19 the attorney general or chief law enforcement
20 officer of the Tribal government, or another of-
21 ficial or agency designated by the Tribal gov-
22 ernment to bring civil actions on behalf of the
23 Tribal government or the Indian Tribe of the
24 Tribal government.

1 (20) STATE PRIVACY REGULATOR.—The term
2 “State privacy regulator” means—

3 (A) the chief consumer protection officer of
4 a State; or

5 (B) a State consumer protection agency
6 with expertise in data protection, including the
7 California Privacy Protection Agency.

8 (21) TRIBAL GOVERNMENT.—The term “Tribal
9 government” means the recognized governing body
10 of an Indian Tribe.

11 (22) WORK-RELATED DECISION.—The term
12 “work-related decision” includes a decision by an
13 employer with regard to—

14 (A) hiring or engaging a covered individual
15 (including any decision with regard to recruit-
16 ing, screening, interviewing, reviewing, or se-
17 lecting an applicant);

18 (B) firing, retaining, taking a disciplinary
19 action against, demoting, deactivating, or reas-
20 signing duties of a covered individual; or

21 (C) any other term, condition, or privilege
22 of employment or other work of the covered in-
23 dividual, such as relating to wages, wage set-
24 ting, work hours, scheduling, attendance re-
25 quirements, workload, performance standards,

1 assignment of work, access to work and train-
2 ing opportunities, productivity requirements,
3 promotion, workplace health and safety, health
4 care or long-term care coverage, or other bene-
5 fits.

6 **SEC. 3. USE OF AN AUTOMATED DECISION SYSTEM BY AN**
7 **EMPLOYER.**

8 (a) WORK-RELATED DECISIONS.—

9 (1) IN GENERAL.—An employer—

10 (A) may not rely predominantly on an
11 automated decision system in making a work-
12 related decision with respect to a covered indi-
13 vidual; and

14 (B) may not use an automated decision
15 system in a manner that would—

16 (i) prevent compliance with, or result
17 in a violation of, any Federal, State, or
18 local labor, occupational safety and health,
19 employment, or civil rights law, including
20 regulation;

21 (ii) prevent compliance with any right
22 of a covered individual to reasonable ac-
23 commodations or nondiscrimination as re-
24 quired by Federal, State, or local law; or

1 (iii) prevent or discourage a covered
2 individual from exercising any right under
3 the National Labor Relations Act (29
4 U.S.C. 151 et seq.) or any similar rights
5 under any other Federal, State, or local
6 law.

7 (2) DISCLOSURES.—

8 (A) IN GENERAL.—An employer that uses
9 or intends to use an automated decision system
10 in making a work-related decision with respect
11 to a covered individual shall, in accordance with
12 subparagraph (B), disclose to such covered indi-
13 vidual—

14 (i) that the employer uses or intends
15 to use an automated decision system in
16 making such a work-related decision;

17 (ii) a description and explanation of
18 the automated decision system, including—

19 (I) the types of data collected or
20 intended to be collected as inputs to
21 the automated decision system and
22 the circumstances of such collection;

23 (II) the characteristics that the
24 automated decision system measures
25 or is intended to measure, such as the

1 knowledge, skills, or abilities of the
2 covered individual;

3 (III) how such characteristics re-
4 late or would relate to any function
5 required for the work or potential
6 work of the covered individual;

7 (IV) how the system measures or
8 is intended to measure such charac-
9 teristics;

10 (V) any performance standards
11 or metrics used as inputs or produced
12 as outputs of the automated decision
13 system; and

14 (VI) how the covered individual
15 can interpret the output of such auto-
16 mated decision system in plain lan-
17 guage;

18 (iii) the identity of the individual or
19 entity that operates the automated decision
20 system;

21 (iv) how the employer uses or intends
22 to use such an automated decision system
23 in making such a work-related decision;

24 (v) how the covered individual may
25 dispute or appeal a work-related decision

made with respect to the covered individual
using an automated decision system; and

(vi) the trade name of the automated
decision system.

(B) TIMING OF DISCLOSURES.—

(i) DISCLOSURES WITH REGARD TO
HIRING AND PROCESSING APPLICATIONS.—

(I) IN GENERAL.—An employer
shall provide a disclosure required
under subparagraph (A) to the cov-
ered individual—

(aa) in the case of a covered
individual for whom a work-re-
lated decision with regard to the
hiring of the covered individual—

(AA) was made on or
after the date that is 5 years
prior to the date of enact-
ment of this Act, but before
such date of enactment, not
later than 30 days after
such date of enactment; or

(BB) except as pro-
vided in item (bb), is made
on or after the date of en-

1 actment of this Act, prior to
2 making such work-related
3 decision; and

4 (bb) in the case of an appli-
5 cant who applies to the employer
6 on or after the date of enactment
7 of this Act, prior to processing
8 an application by the applicant to
9 be employed by, or otherwise per-
10 form work for remuneration for,
11 the employer.

12 (II) EMPLOYERS NEEDING IN-
13 FORMATION FOR PRIOR WORK-RE-
14 LATED DECISIONS.—With respect to a
15 disclosure described in subclause
16 (I)(aa)(AA), in the case of an em-
17 ployer that did not maintain, prior to
18 the date of enactment of this Act, all
19 of the information described in sub-
20 paragraph (A) required for such a dis-
21 closure, the employer shall—

22 (aa) provide the disclosure
23 in accordance with this para-
24 graph with respect to as much
25 information described in subpara-

graph (A) as the employer did maintain; and

(bb) inform the covered individual in accordance with such subclause that the employer did not maintain records of the other information required under such subparagraph.

(ii) OTHER DISCLOSURES.—

(I) IN GENERAL.—With respect to any work-related decision not described in clause (i) that is made on or after the date of enactment of this Act, an employer shall provide the disclosure required under subparagraph (A) prior to making such work-related decision.

(II) ADVERSE WORK ACTIONS.—

Notwithstanding subclause (I), in the case the work-related decision described in such subclause is for an adverse work action against the covered individual, the disclosure described in such subclause shall be required at

1 least 7 days prior to taking the ad-
2 verse work action.

3 (iii) UPDATED DISCLOSURES.—With
4 respect to a covered individual for whom
5 an employer provided a disclosure under
6 subparagraph (A), the employer shall pro-
7 vide the covered individual with an updated
8 disclosure—

9 (I) not less than 7 days before
10 implementing changes to practices
11 disclosed under clause (ii) or (iv) of
12 subparagraph (A); or

13 (II) immediately upon significant
14 new information required to be pro-
15 vided in such a disclosure becoming
16 available.

17 (C) EXCEPTIONS.—

18 (i) IN GENERAL.—Notwithstanding
19 any provision in this paragraph, no disclo-
20 sure is required under this paragraph for
21 any work-related decision made prior to
22 the date of enactment of this Act, except
23 for such a decision with regard to the hir-
24 ing of a covered individual that is made
25 not prior to the date that is 5 years before

the date of enactment of this Act as described in subparagraph (B)(i)(I)(aa)(AA).

(ii) EGREGIOUS MISCONDUCT.—Notwithstanding any provision in this paragraph, in the case a covered individual engages in egregious misconduct, an employer may issue a disclosure under this paragraph for a work-related decision made by the employer with respect to such egregious misconduct after the employer makes such work-related decision.

(3) TRAINING.—An employer that uses or intends to use an automated decision system in making a work-related decision with respect to a covered individual shall train any individual or entity that operates the automated decision system on the use of such system, including on—

(A) the input information used by such automated decision system;

(B) the appeals process for the output of such an automated decision system;

(C) potential biases in automated decision systems;

(D) any limitations of the automated decision system, including intended use cases,

1 known performance issues outside of those use
2 cases, and proper interpretation of outputs;

3 (E) any potential adverse effects to covered
4 individuals due to the automated decision sys-
5 tem;

6 (F) any potential errors or problems re-
7 lated to the automated decision system; and

8 (G) examples of inappropriate uses of the
9 automated decision system, such as misinter-
10 pretation of outputs or exclusive reliance on
11 outputs to make a decision.

12 (b) MANAGEMENT BY AN AUTOMATED DECISION
13 SYSTEM.—An employer that manages a covered individual
14 through an automated decision system shall enable the
15 covered individual to opt out of such management and in-
16 stead be managed through a human manager who is able
17 to make work-related decisions with respect to the covered
18 individual.

19 (c) APPLICANT OPT OUT.—An employer shall enable
20 applicants to opt out of having application materials
21 screened, reviewed, or processed by an automated decision
22 system and instead be screened, reviewed, or processed by
23 a human, including in cases in which the employer engages
24 a third party to screen, review, or process application ma-
25 terials.

1 **SEC. 4. PREDEPLOYMENT EVALUATIONS AND POST-DE-**
2 **PLOYMENT IMPACT ASSESSMENTS.**

3 (a) PREDEPLOYMENT EVALUATIONS.—

4 (1) FOR DEVELOPERS.—Before a developer de-
5 ploys, licenses, or offers an automated decision sys-
6 tem (including deploying a material change to a pre-
7 viously deployed automated decision system or a ma-
8 terial change made prior to deployment) that is in-
9 tended or reasonably likely to be used to make a
10 work-related decision, the developer of the auto-
11 mated decision system shall conduct a
12 predeployment evaluation that—

13 (A) includes a detailed review of the auto-
14 mated decision system; and

15 (B) results in a report, sufficient for an in-
16 dividual having ordinary skill in the art to un-
17 derstand the functioning, risks, uses, benefits,
18 limitations, and other pertinent attributes of
19 the automated decision system, that includes—

20 (i) a description of the automated de-
21 cision system’s design and methodology,
22 including the inputs the automated deci-
23 sion system is designed to use to produce
24 an output and the outputs the automated
25 decision system is designed to produce for
26 purposes of specific work-related decisions;

1 (ii) a description of how the auto-
2 mated decision system was created and
3 tested, including—

4 (I) any metric used to test the
5 performance of the automated deci-
6 sion system;

7 (II) defined benchmarks and
8 goals that correspond to such metrics,
9 including whether there was sufficient
10 representation of demographic groups
11 that are reasonably likely to use or be
12 affected by the automated decision
13 system in the data used to create or
14 train the automated decision system,
15 and whether there was reasonable
16 testing, if any, across such demo-
17 graphic groups;

18 (III) the outputs the automated
19 decision system actually produces in
20 testing;

21 (IV) a description of any con-
22 sultation with relevant stakeholders,
23 including covered individuals that will
24 be impacted by the automated deci-
25 sion system, regarding the develop-

1 ment of the automated decision sys-
2 tem or a disclosure that no such con-
3 sultation occurred;

4 (V) any computational algorithm
5 incorporated into the development of
6 the automated decision system and a
7 description of the training process for
8 such algorithm including the training,
9 validation, and test data used to con-
10 firm the intended outputs; and

11 (VI) a description of the data
12 and information used to develop, test,
13 maintain, or update the automated
14 decision system, including—

15 (aa) each type of personal
16 data used, each source from
17 which the personal data was col-
18 lected, and how each type of per-
19 sonal data was inferred and proc-
20 essed;

21 (bb) the legal authorization
22 for collecting and processing the
23 personal data; and

24 (cc) an explanation of how
25 the data (including personal

1 data) used is representative, pro-
2 portional, and appropriate to the
3 development and intended uses of
4 the automated decision system;

5 (iii) a description of—

6 (I) the potential for the auto-
7 mated decision system to pose risks to
8 worker rights, including with respect
9 to the privacy, physical and mental
10 health and safety, dignity, and auton-
11 omy of workers or to result in the
12 chilling of legally protected activity
13 (including organizing and collective
14 bargaining); and

15 (II) any potential economic im-
16 pact of the automated decision system
17 on workers, such as with respect to
18 wages, hours, schedules, benefits,
19 skills training, work opportunities,
20 and advancement;

21 (iv) a description of the potential for
22 the automated decision system to discrimi-
23 nate, including by having a disparate im-
24 pact on the equal enjoyment of goods, serv-
25 ices, or other activities or opportunities,

1 and a description of such discrimination;
2 and

3 (v) a description of alternative prac-
4 tices and recommendations to prevent or
5 mitigate risks to workers rights and rec-
6 ommendations for how the developer could
7 monitor for risks to workers rights after
8 offering, licensing, or deploying the auto-
9 mated decision system.

10 (2) FOR EMPLOYERS.—Before an employer de-
11 ploys an automated decision system (including de-
12 ploying a material change to a previously deployed
13 automated decision system or a material change
14 made prior to deployment) that is intended or rea-
15 sonably likely to be used to make a work-related de-
16 cision, the employer shall conduct a predeployment
17 evaluation that—

18 (A) includes a detailed review of the auto-
19 mated decision system; and

20 (B) results in a report, sufficient for an in-
21 dividual having ordinary skill in the art to un-
22 derstand the functioning, risks, uses, benefits,
23 limitations, and other pertinent attributes of
24 the automated decision system, that includes—

1 (i) a description of the manner in
2 which the automated decision system may
3 be used to make or contribute to a work-
4 related decision and the purpose for which
5 the automated decision system will be de-
6 ployed;

7 (ii) a description of the necessity and
8 proportionality of the automated decision
9 system in relation to its planned use, in-
10 cluding the intended benefits and limita-
11 tions of the automated decision system and
12 a description of the baseline process being
13 enhanced or replaced by the automated de-
14 cision system, if applicable;

15 (iii) a description of the inputs to the
16 automated decision system that the em-
17 ployer plans to use to produce an output,
18 including—

19 (I) the type of personal data and
20 information used and how the per-
21 sonal data and information will be col-
22 lected, inferred, and processed;

23 (II) the legal authorization for
24 collecting and processing the personal
25 data; and

1 (III) an explanation of how the
2 data used is representative, propor-
3 tional, and appropriate to the deploy-
4 ment of the automated decision sys-
5 tem;

6 (iv) a description of the outputs the
7 automated decision system is expected to
8 produce and the outputs the automated de-
9 cision system actually produces in testing;

10 (v) a description of any additional
11 testing or training completed by the em-
12 ployer for the context in which the auto-
13 mated decision system will be deployed;

14 (vi) a description of any consultation
15 with relevant stakeholders, including cov-
16 ered individuals that will be impacted by
17 the automated decision system, regarding
18 the deployment of the automated decision
19 system;

20 (vii) a description of—

21 (I) the potential for the auto-
22 mated decision system to pose risks to
23 worker rights, including with respect
24 to the privacy, physical and mental
25 health and safety, dignity, and auton-

1 omy of workers or to result in the
2 chilling of legally protected activity
3 (including organizing and collective
4 bargaining); and

5 (II) any potential economic im-
6 pact of the automated decision system
7 on workers, such as with respect to
8 wages, hours, schedules, benefits,
9 skills training, work opportunities,
10 and advancement;

11 (viii) a description of the potential for
12 the automated decision system to discrimi-
13 nate, including by having a disparate im-
14 pact on the equal enjoyment of goods, serv-
15 ices, or other activities or opportunities,
16 and a description of such discrimination;
17 and

18 (ix) a description of alternative prac-
19 tices and recommendations to prevent or
20 mitigate risks to workers rights and rec-
21 ommendations for how the employer could
22 monitor for risks to workers rights after
23 offering, licensing, or deploying the auto-
24 mated decision system.

1 (3) EFFECTIVE DATE.—The requirements for
2 predeployment evaluations under paragraphs (1) and
3 (2) shall only apply with respect to the deployment,
4 licensing, or offering of any automated decision sys-
5 tem that occurs on or after the date of enactment
6 of this Act.

7 (b) EMPLOYER ANNUAL IMPACT ASSESSMENT.—An
8 employer that deploys an automated decision system used
9 to make a work-related decision in any year shall conduct
10 an impact assessment of the automated decision system
11 with respect to the use of such system in such year in
12 accordance with the following:

13 (1) IMPACT ASSESSMENT.—The employer
14 shall—

15 (A) conduct a full impact assessment on
16 the automated decision system with respect to
17 the year, including the information described in
18 paragraph (2) as relevant; and

19 (B) prepare a report on such assessment,
20 including—

21 (i) a description of the extent to which
22 the automated system during the year in-
23 fringed on the rights of any worker, includ-
24 ing with respect to the privacy, physical
25 and mental health and safety, dignity, and

1 autonomy of workers or to result in the
2 chilling of legally protected activity (includ-
3 ing organizing and collective bargaining),
4 or had an economic impact on any worker,
5 such as with respect to wages, hours,
6 schedules, benefits, skills training, work
7 opportunities, and advancement;

8 (ii) a description of the extent to
9 which the automated decision system pro-
10 duced a disparate impact in the equal en-
11 joyment of goods, services, or other activi-
12 ties or opportunities, including the method-
13 ology for such evaluation, of how the auto-
14 mated decision system produced or likely
15 produced such disparity;

16 (iii) a description of the types of data
17 input into the automated decision system
18 during the reporting period to produce an
19 output, including—

20 (I) documentation of how data
21 input into the automated decision sys-
22 tem to produce an output is rep-
23 resented and complete descriptions of
24 each field of data; and

1 (II) whether and to what extent
 2 the data input into the automated de-
 3 cision system to produce an output
 4 was used to modify the automated de-
 5 cision system;

6 (iv) whether and to what extent the
 7 automated decision system produced the
 8 outputs it was expected to produce; and

9 (v) a detailed description of how the
 10 automated decision system was used to
 11 make a work-related decision.

12 (2) EMPLOYERS WITH A DEPLOYED AUTO-
 13 MATED DECISION SYSTEM.—An employer that de-
 14 ployed an automated decision system used to make
 15 a work-related decision before the date of enactment
 16 of this Act and has not otherwise conducted a
 17 predeployment evaluation under subsection (a) or a
 18 review under this paragraph with respect to the
 19 automated decision system shall—

20 (A) conduct a detailed review of the auto-
 21 mated decision system; and

22 (B) include in the first impact assessment
 23 of such automated decision system under para-
 24 graph (1) a report, sufficient for an individual
 25 having ordinary skill in the art to understand

1 the functioning, risks, uses, benefits, limita-
2 tions, and other pertinent attributes of the
3 automated decision system, that includes—

4 (i) a description of the manner in
5 which the automated decision system may
6 be used to make or contribute to a work-
7 related decision and the purpose for which
8 the automated decision system will be de-
9 ployed;

10 (ii) a description of the necessity and
11 proportionality of the automated decision
12 system in relation to its planned use, in-
13 cluding the intended benefits and limita-
14 tions of the automated decision system and
15 a description of the baseline process being
16 enhanced or replaced by the automated de-
17 cision system, if applicable; and

18 (iii) a description of the inputs to the
19 automated decision system that the em-
20 ployer plans to use to produce an output,
21 including—

22 (I) the type of personal data and
23 information used and how the per-
24 sonal data and information will be col-
25 lected, inferred, and processed;

1 (II) the legal authorization for
2 collecting and processing the personal
3 data; and

4 (III) an explanation of how the
5 data used is representative, propor-
6 tional, and appropriate to the deploy-
7 ment of the automated decision sys-
8 tem.

9 (3) REPORT.—Not later than 30 days after the
10 completion of a report on an impact assessment
11 under paragraph (1)(B), an employer shall submit to
12 the developer of the automated decision system a
13 summary of such report.

14 (c) DEVELOPER ANNUAL REVIEW OF ASSESS-
15 MENTS.—A developer of an automated decision system
16 used by an employer in any year to make a work-related
17 decision shall review each impact assessment summary
18 submitted by an employer under subsection (b)(3) with re-
19 spect to such system in such year for the following:

20 (1) To assess how the employer is using the
21 automated decision system, including the method-
22 ology for assessing such use.

23 (2) To assess the type of data the employer is
24 inputting into the automated decision system to

1 produce an output and the types of outputs the
2 automated decision system is producing.

3 (3) To assess whether the employer is com-
4 plying with any relevant contractual agreement with
5 the developer and whether any remedial action is
6 necessary.

7 (4) To compare the automated decision sys-
8 tem's performance in real-world conditions versus
9 any predeployment testing available, including the
10 methodology used to evaluate such performance.

11 (5) To assess whether the automated decision
12 system infringed on worker's rights or is reasonably
13 likely to be infringing on worker's rights.

14 (6) To assess whether and, if so, how the auto-
15 mated decision system is causing, or is reasonably
16 likely to be causing, a disparate impact in the equal
17 enjoyment of goods, services, or other activities or
18 opportunities.

19 (7) To determine whether the automated deci-
20 sion system needs modification.

21 (8) To determine whether any other action is
22 appropriate to ensure that the automated decision
23 system remains safe and effective.

24 (d) JOINT DEVELOPER AND EMPLOYER OBLIGA-
25 TIONS.—If a person is both the developer of an automated

1 decision system and an employer deploying an automated
2 decision system, the person may conduct combined
3 predeployment evaluations and annual assessments, pro-
4 vided that each combined evaluation or assessment satis-
5 fies all requirements for both developers and employers.

6 (e) RELATIONSHIPS BETWEEN DEVELOPERS AND
7 EMPLOYER.—The developer of an automated decision sys-
8 tem shall, upon the reasonable request of an employer
9 using the automated decision system, make available to
10 the employer information necessary for the employer to
11 demonstrate compliance with the requirements of this Act,
12 including—

13 (1) making available to the employer a report
14 on the predeployment evaluation required under sub-
15 section (a) or the annual review of assessments con-
16 ducted by the developer under subsection (c); and

17 (2) providing information necessary to enable
18 the employer to conduct and document a
19 predeployment evaluation under subsection (a) or an
20 impact assessment under subsection (b).

21 (f) REPORTING AND RETENTION REQUIREMENTS.—

22 (1) REPORTING.—A developer or employer that
23 conducts a predeployment evaluation, impact assess-
24 ment, or developer annual review of assessments
25 under this section shall—

1 (A) not later than 30 days after completion
2 of such evaluation, assessment, or review, sub-
3 mit the evaluation, assessment, or review to the
4 Fairness and Transparency Office of the De-
5 partment of Labor;

6 (B) upon request, make the completed
7 evaluation, assessment, or review available to
8 Congress; and

9 (C) not later than 30 days after such com-
10 pletion—

11 (i) publish a summary of the evalua-
12 tion, assessment, or review on the website
13 of the developer or employer in a manner
14 that is easily accessible to individuals; and

15 (ii) submit such summary to the Fair-
16 ness and Transparency Office of the De-
17 partment of Labor.

18 (2) RETENTION.—A developer or employer shall
19 retain all evaluations, assessments, and reviews con-
20 ducted under this section for a period of not fewer
21 than 10 years after the completion of the evaluation,
22 assessment, or review.

23 (3) TRADE SECRETS AND PRIVACY.—A devel-
24 oper or employer—

1 (A) may redact and segregate any trade
 2 secret (as defined in section 1839 of title 18,
 3 United States Code) from public disclosure in
 4 the summary published and submitted under
 5 paragraph (1)(C); and

6 (B) shall redact and segregate personal
 7 data from public disclosure in such summary.

8 (g) RULEMAKING.—

9 (1) AUTHORITY.—The Director of the Fairness
 10 and Transparency Office of the Department of
 11 Labor may, in accordance with section 553 of title
 12 5, United States Code, promulgate such rules as
 13 may be necessary to carry out this section.

14 (2) ADDITIONAL REGULATIONS.—Not later
 15 than 2 years after the date of enactment of this Act,
 16 the Director of the Fairness and Transparency Of-
 17 fice shall—

18 (A) promulgate rules, pursuant to section
 19 553 of title 5, United States Code, specifying—

20 (i) what information and factors a de-
 21 veloper or employer shall consider in mak-
 22 ing the predeployment evaluation required
 23 under subsection (a);

24 (ii) what information a developer or
 25 employer shall include in a summary of an

1 evaluation, assessment, or review described
2 in subsection (f)(1)(C); and

3 (iii) the extent to and process by
4 which a developer may request additional
5 information from a employer for purposes
6 of the review under subsection (c), includ-
7 ing the purposes for which a developer is
8 permitted to use such additional informa-
9 tion; and

10 (B) in promulgating such rules, consider
11 the need to protect the privacy of personal data,
12 as well as the need for information sharing by
13 developers and employers to comply with this
14 section and inform the public.

15 **SEC. 5. AUTOMATED DECISION SYSTEM STANDARDS.**

16 (a) **AUTOMATED DECISION SYSTEM USE.**—A devel-
17 oper of an automated decision system that is intended or
18 reasonably likely to be used to make a work-related deci-
19 sion and each employer using such automated decision
20 system shall—

21 (1) take reasonable measures to prevent and
22 mitigate any risks to worker rights from the auto-
23 mated decision system that are identified by a
24 predeployment evaluation under section 4(a) or an
25 impact assessment under section 4(b);

1 (2) consult stakeholders, including stakeholders
 2 representing any community that will be impacted
 3 by the automated decision system, regarding the de-
 4 velopment or deployment of the automated decision
 5 system; and

6 (3) certify to the Director before deploying, li-
 7 censing, or offering the automated decision system
 8 that, based on the results of the predeployment eval-
 9 uation under section 4(a) or an impact assessment
 10 under section 4(b), use of the automated decision
 11 system is not likely to result in—

12 (A) risk to workers' rights, including with
 13 respect to the privacy, physical and mental
 14 health and safety, dignity, and autonomy of
 15 workers; or

16 (B) the chilling of legally protected activity
 17 (including with respect to organizing and collec-
 18 tive bargaining).

19 (b) OFF-LABEL USE.—

20 (1) DEVELOPERS.—A developer of an auto-
 21 mated decision system may not knowingly offer or li-
 22 cense the automated decision system for use in pro-
 23 ducing outputs for purposes of any work-related de-
 24 cision other than those described in the
 25 predeployment evaluation under section 4(a).

1 (2) EMPLOYERS.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B), an employer may not know-
4 ingly use an automated decision system to
5 produce outputs for purposes of a work-related
6 decision other than for purposes of a work-re-
7 lated decision that is described in the
8 predeployment evaluation under such section by
9 the developer of the automated decision system.

10 (B) ASSUMPTION OF RESPONSIBILITY.—
11 An employer that intends to use an automated
12 decision system to produce an output for pur-
13 poses of a work-related decision that is not de-
14 scribed in the predeployment evaluation under
15 such section by the developer of the automated
16 decision system shall assume the responsibilities
17 of the developer required by this Act (other
18 than with respect to conducting a review of as-
19 sessments under section 4(c)) with respect to
20 the use by the employer of the automated deci-
21 sion system.

1 **SEC. 6. ESTABLISHMENT OF FAIRNESS AND TRANS-**
2 **PARENCY OFFICE.**

3 (a) IN GENERAL.—There is established in the Wage
4 and Hour Division of the Department of Labor the Fair-
5 ness and Transparency Office.

6 (b) DIRECTOR.—The President shall appoint a Direc-
7 tor of the Fairness and Transparency Office to head the
8 Fairness and Transparency Office.

9 (c) EMPLOYEES AND ADVISORY BOARDS OF THE OF-
10 FICE.—

11 (1) IN GENERAL.—The Director—

12 (A) may select, appoint, and employ, with-
13 out regard to the provisions of sections 3309
14 through 3318 of title 5, United States Code, in-
15 dividuals, including technologists, directly to po-
16 sitions in the competitive service, as defined in
17 section 2102 of such title, to carry out the du-
18 ties of the Director under this Act; and

19 (B) may fix the compensation of the indi-
20 viduals described in subparagraph (A) without
21 regard to chapter 51 and subchapter III of
22 chapter 53 of title 5, United States Code, relat-
23 ing to classification of positions and General
24 Schedule pay rates, except that the rate of pay
25 for such individuals may not exceed the rate

1 payable for level V of the Executive Schedule
2 under section 5316 of that title.

3 (2) ADVISORY BOARDS.—

4 (A) ESTABLISHMENT.—The Director shall
5 establish advisory boards to advise and consult
6 with in the exercise of the functions of the Di-
7 rector under this Act and to provide informa-
8 tion on emerging practices relating to the treat-
9 ment of data by employers that are the fol-
10 lowing:

11 (i) The User Advisory Board, which
12 shall be comprised of experts in consumer
13 protection, privacy, civil rights, disability
14 rights, labor organizations and worker ad-
15 vocacy organizations, and ethics.

16 (ii) The Research Advisory Board,
17 which shall be comprised of—

18 (I) individuals with academic and
19 research expertise in privacy, cyberse-
20 curity, computer science, innovation,
21 design, ethics, economics, civil rights
22 law, disability law, labor organizations
23 and worker advocacy organizations,
24 and public policy; and

1 (II) representatives of labor orga-
2 nizations and worker advocacy organi-
3 zations.

4 (iii) The Product Advisory Board,
5 which shall be comprised of technologists,
6 computer scientists, designers, product
7 managers, attorneys, representatives of
8 labor organizations and worker advocacy
9 organizations, workplace technology ex-
10 perts, accessibility experts, and other rep-
11 resentatives of employers and workers.

12 (iv) The Labor Advisory Board, which
13 shall be comprised of—

14 (I) representatives of labor orga-
15 nizations and worker advocacy organi-
16 zations; and

17 (II) representatives of workers.

18 (B) APPOINTMENTS.—The Director shall
19 appoint members to the advisory boards estab-
20 lished under subparagraph (A) without regard
21 to party affiliation.

22 (C) MEETINGS.—Each advisory board es-
23 tablished under subparagraph (A) shall meet—

24 (i) at the call of the Director; and

25 (ii) not less than 2 times annually.

1 (D) COMPENSATION AND TRAVEL EX-
2 PENSES.—A member of an advisory board es-
3 tablished under subparagraph (A) who is not an
4 officer or employee of the Federal Government
5 shall—

6 (i) be entitled to receive compensation
7 at a rate fixed by the Director while at-
8 tending meetings of the advisory board, in-
9 cluding travel time; and

10 (ii) receive travel expenses, including
11 per diem in lieu of subsistence, in accord-
12 ance with applicable provisions under sub-
13 chapter I of chapter 57 of title 5, United
14 States Code.

15 (E) EXEMPTION FROM THE FEDERAL AD-
16 VISORY COMMITTEE ACT.—Each advisory board
17 established under subparagraph (A) shall be ex-
18 empt from chapter 10 of title 5, United States
19 Code.

20 (3) USE OF VOLUNTARY SERVICES.—The Direc-
21 tor may, as may from time to time be needed, use
22 any voluntary or uncompensated services.

23 (4) ATTORNEYS.—Attorneys appointed under
24 this subsection may appear for and represent the Di-
25 rector in any litigation.

1 (d) OFFICES.—

2 (1) IN GENERAL.—The principal office of the
3 Fairness and Transparency Office shall be in the
4 District of Columbia.

5 (2) REGIONAL, LOCAL, AND OTHER OFFICES.—
6 The Director may establish regional, local, or other
7 offices, including an office in the city of San Fran-
8 cisco, California, or the San Francisco Bay area in
9 California.

10 **SEC. 7. REGULATIONS.**

11 (a) IN GENERAL.—

12 (1) AUTHORITY.—

13 (A) IN GENERAL.—Except as provided in
14 paragraph (2), the Secretary, acting through
15 the Director, may prescribe such regulations as
16 may be necessary to carry out this Act with re-
17 spect to covered individuals described in section
18 2(4)(A) (other than covered individuals de-
19 scribed in clauses (iii) through (v) of such sec-
20 tion) and other individuals affected by employ-
21 ers described in subclause (I) or (II) of section
22 2(9)(A)(i), including individuals who are cov-
23 ered individuals described in section 2(4)(B)
24 with respect to such employers.

1 (B) CONSULTATION.—In prescribing any
2 regulations authorized under this paragraph,
3 the Secretary, acting through the Director, may
4 consult with—

5 (i) Federal agencies that have juris-
6 diction over Federal privacy laws or exper-
7 tise in privacy, including the Federal
8 Trade Commission;

9 (ii) Federal agencies that have juris-
10 diction over labor and employment issues,
11 including the Equal Employment Oppor-
12 tunity Commission, the National Science
13 Foundation, and the National Labor Rela-
14 tions Board; and

15 (iii) any other Federal agencies with
16 relevant expertise, including the United
17 States Access Board and the Office of
18 Science and Technology Policy.

19 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-
20 BRARY OF CONGRESS.—The Comptroller General of
21 the United States and the Librarian of Congress
22 shall prescribe any regulations described in para-
23 graph (1)(A) with respect to covered individuals of
24 the Government Accountability Office and the Li-
25 brary of Congress, respectively, and other individuals

1 affected by the Comptroller General of the United
2 States and the Librarian of Congress, respectively.

3 (b) INDIVIDUALS COVERED BY CONGRESSIONAL AC-
4 COUNTABILITY ACT OF 1995.—

5 (1) AUTHORITY.—Not later than 45 days after
6 the Secretary prescribes any regulation under sub-
7 section (a)(1)(A), the Board of Directors of the Of-
8 fice of Compliance shall prescribe (in accordance
9 with section 304 of the Congressional Accountability
10 Act of 1995 (2 U.S.C. 1384)) such regulations as
11 may be necessary to carry out this Act with respect
12 to covered individuals described in section
13 2(4)(A)(iii) and other individuals affected by em-
14 ployers described in section 2(9)(A)(i)(III), including
15 individuals who are covered individuals described in
16 section 2(4)(B) with respect to such employers.

17 (2) AGENCY REGULATIONS.—The regulations
18 prescribed under paragraph (1) shall be the same as
19 substantive regulations promulgated by the Sec-
20 retary under subsection (a)(1)(A) except insofar as
21 the Board may determine, for good cause shown and
22 stated together with the regulations prescribed
23 under paragraph (1), that a modification of such
24 regulations would be more effective for the imple-

1 mentation of the rights and protections involved
2 under this section.

3 (c) INDIVIDUALS COVERED BY CHAPTER 5 OF TITLE
4 3, UNITED STATES CODE.—

5 (1) AUTHORITY.—Not later than 45 days after
6 the Secretary prescribes any regulation under sub-
7 section (a)(1)(A), the President (or the designee of
8 the President) shall prescribe such regulations as
9 may be necessary to carry out this Act with respect
10 to covered individuals described in section
11 2(4)(A)(iv) and other individuals affected by employ-
12 ers described in section 2(9)(A)(i)(IV), including in-
13 dividuals who are covered individuals described in
14 section 2(4)(B) with respect to such employers.

15 (2) AGENCY REGULATIONS.—The regulations
16 prescribed under paragraph (1) shall be the same as
17 substantive regulations promulgated by the Sec-
18 retary under subsection (a)(1)(A) except insofar as
19 the President (or designee) may determine, for good
20 cause shown and stated together with the regula-
21 tions prescribed under paragraph (1), that a modi-
22 fication of such regulations would be more effective
23 for the implementation of the rights and protections
24 involved under this section.

1 (d) INDIVIDUALS COVERED BY CHAPTER 63 OF
2 TITLE 5, UNITED STATES CODE.—

3 (1) AUTHORITY.—Not later than 45 days after
4 the Secretary prescribes any regulation under sub-
5 section (a)(1)(A), the Director of the Office of Per-
6 sonnel Management shall prescribe such regulations
7 as may be necessary to carry out this Act with re-
8 spect to covered individuals described in section
9 2(4)(A)(v) and other individuals affected by employ-
10 ers described in section 2(9)(A)(i)(V), including indi-
11 viduals who are covered individuals described in sec-
12 tion 2(4)(B) with respect to such employers.

13 (2) AGENCY REGULATIONS.—The regulations
14 prescribed under paragraph (1) shall be the same as
15 substantive regulations promulgated by the Sec-
16 retary under subsection (a)(1)(A) except insofar as
17 the Director may determine, for good cause shown
18 and stated together with the regulations prescribed
19 under paragraph (1), that a modification of such
20 regulations would be more effective for the imple-
21 mentation of the rights and protections involved
22 under this section.

1 **SEC. 8. WHISTLEBLOWER PROTECTIONS.**

2 An employer may not discriminate or retaliate (in-
3 cluding through intimidation, threats, coercion, or harass-
4 ment) against any covered individual of the employer—

5 (1) for exercising, or attempting to exercise,
6 any right provided under this Act; or

7 (2) because the covered individual (or another
8 individual acting at the request of the covered indi-
9 vidual) has—

10 (A) made a written or oral complaint to
11 the employer or a Federal, State, or local gov-
12 ernment entity of a violation of section 3;

13 (B) sought assistance or intervention with
14 respect to a worker privacy-related concern
15 from the employer, a Federal, State, or local
16 government, or a worker representative;

17 (C) instituted, caused to be instituted, or
18 otherwise participated in any inquiry or pro-
19 ceeding under or related to this Act;

20 (D) given, or is about to give, any informa-
21 tion in connection with any inquiry or pro-
22 ceeding relating to any right provided under
23 this Act;

24 (E) testified, or is about to testify, in any
25 inquiry or proceeding relating to any right pro-
26 vided under this Act; or

1 (F) refused to follow the output of an
 2 automated decision system when exercising pro-
 3 fessional judgement.

4 **SEC. 9. ENFORCEMENT.**

5 (a) IN GENERAL.—

6 (1) DEFINITION.—Notwithstanding section 2,
 7 for purposes of this subsection:

8 (A) COVERED INDIVIDUAL.—The term
 9 “covered individual” means a covered indi-
 10 vidual—

11 (i) described in section 2(4)(A) (other
 12 than covered individuals described in
 13 clauses (iii) through (v) of such section); or

14 (ii) described in section 2(4)(B) with
 15 respect to an employer.

16 (B) EMPLOYER.—The term “employer”
 17 means an employer described in subclause (I)
 18 or (II) of section 2(9)(A)(i).

19 (2) ENFORCEMENT BY THE FAIRNESS AND
 20 TRANSPARENCY OFFICE.—

21 (A) INVESTIGATION.—

22 (i) IN GENERAL.—To ensure compli-
 23 ance with the provisions of this Act, or any
 24 regulation or order issued under this Act,

1 the Secretary, acting through the Direc-
2 tor—

3 (I) may investigate and gather
4 data regarding the wages, hours, and
5 other conditions and practices of em-
6 ployment (and other work) in any in-
7 dustry subject to this Act, and may
8 enter and inspect any place or record
9 (and make such transcriptions there-
10 of), question any covered individual,
11 and investigate any facts, conditions,
12 practices, or matters as the Secretary
13 may deem necessary or appropriate to
14 determine whether an employer has
15 violated any provision of this Act, or
16 which may aid in the enforcement of
17 the provisions of this Act; and

18 (II) may require, by general or
19 special orders, an employer, to file
20 with the Secretary, in such form as
21 the Secretary may prescribe, annual
22 or special reports or answers in writ-
23 ing to specific questions, furnishing to
24 the Secretary such information or
25 records as the Secretary may require

1 as to the organization, business, con-
2 duct, practices, management, and re-
3 lation to other corporations, partner-
4 ships, and individuals, of the em-
5 ployer.

6 (ii) REPORTS AND ANSWERS.—An em-
7 ployer shall file the reports and answers
8 (including information and records) re-
9 quired under clause (i)(II) in such manner,
10 including under oath or otherwise, and
11 within such reasonable time period as the
12 Secretary may require.

13 (iii) JOINT INVESTIGATIONS.—The
14 Secretary, acting through the Director,
15 may conduct investigations and make re-
16 quests for information, as authorized
17 under this Act, on a joint basis with an-
18 other Federal agency, a State attorney
19 general, or a State agency.

20 (iv) OBLIGATION TO KEEP, PRESERVE,
21 AND MAKE AVAILABLE RECORDS.—An em-
22 ployer shall make, keep, preserve, and
23 make available to the Secretary records
24 pertaining to compliance with this Act in
25 accordance with section 11(c) of the Fair

1 Labor Standards Act of 1938 (29 U.S.C.
2 211(c)) and in accordance with any regula-
3 tion or order issued by the Secretary.

4 (B) ENFORCEMENT.—With respect to em-
5 ployers and covered individuals, the Secretary,
6 acting through the Director, shall receive, inves-
7 tigate, and attempt to resolve complaints of vio-
8 lations of section 3, 4, 5, or 8 in the same man-
9 ner that the Secretary receives, investigates,
10 and attempts to resolve complaints of violations
11 of sections 6 and 7 of the Fair Labor Stand-
12 ards Act of 1938 (29 U.S.C. 206 and 207).

13 (C) REFERRAL FOR CRIMINAL PRO-
14 CEEDINGS.—If the Secretary, in the course of
15 the performance of any act or duty under this
16 Act, obtains evidence that any employer has en-
17 gaged in conduct that may constitute a viola-
18 tion of Federal criminal law, the Secretary shall
19 refer the matter to the Attorney General for
20 prosecution under any applicable law. Nothing
21 in this paragraph shall affect any other author-
22 ity of the Secretary to disclose information.

23 (D) LITIGATION.—The Solicitor of Labor
24 may appear for and represent the Secretary on
25 any litigation brought under this subsection.

1 (3) PRIVATE RIGHT OF ACTION.—

2 (A) IN GENERAL.—

3 (i) COVERED INDIVIDUALS.—Notwith-
4 standing any action by the Secretary under
5 paragraph (2)(B), any covered individual
6 adversely affected by an alleged violation of
7 section 3, 4, 5, or 8, may commence a civil
8 action against any person that violates
9 such section in any Federal court of com-
10 petent jurisdiction.

11 (ii) LABOR ORGANIZATIONS AND
12 WORKER ADVOCACY ORGANIZATIONS.—
13 Notwithstanding any action by the Sec-
14 retary under paragraph (2)(B), any labor
15 organization or worker advocacy organiza-
16 tion may, on behalf of a covered individual
17 adversely affected by an alleged violation of
18 section 3, 4, 5, or 8, commence a civil ac-
19 tion against any person that violates such
20 section in any Federal court of competent
21 jurisdiction.

22 (B) RELIEF.—

23 (i) IN GENERAL.—In a civil action
24 brought under subparagraph (A) in which
25 the covered individual, labor organization,

1 or worker advocacy organization prevails,
 2 the court may award the covered indi-
 3 vidual, labor organization, or worker advo-
 4 cacy organization—

5 (I) damages of an amount equal
 6 to the sum of any actual damages sus-
 7 tained by the covered individual; or

8 (II) statutory damages described
 9 in clause (iv);

10 (III) injunctive relief; and

11 (IV) equitable relief.

12 (ii) ATTORNEY'S FEES.—In a civil ac-
 13 tion brought under subparagraph (A) in
 14 which the covered individual, labor organi-
 15 zation, or worker advocacy organization
 16 prevails, the court shall award the covered
 17 individual, labor organization, or worker
 18 advocacy organization reasonable attor-
 19 ney's fees and litigation costs.

20 (iii) TEMPORARY RELIEF FOR WHIS-
 21 TLEBLOWERS.—In a civil action brought
 22 under subparagraph (A) regarding a viola-
 23 tion of section 8, the court may award the
 24 covered individual, labor organization, or
 25 worker advocacy organization temporary

1 relief while the case is pending, including
2 reinstatement.

3 (iv) STATUTORY DAMAGES.—The
4 court may, in accordance with clause (v),
5 award statutory damages under clause
6 (i)(II) against a person in the following
7 amounts:

8 (I) USING AN AUTOMATED DECI-
9 SION SYSTEM FOR PROHIBITED AC-
10 TIVITIES.—For each violation of sec-
11 tion 3 by an employer with respect to
12 a covered individual, the court may,
13 subject to clause (vi), award—

14 (aa) damages of an amount
15 not less than \$5,000 and not
16 more than \$20,000; or

17 (bb) for any willful or re-
18 peated violation by the employer,
19 damages of an amount not less
20 than \$10,000 and not more than
21 \$40,000.

22 (II) RETALIATION ON WHISTLE-
23 BLOWERS.—For each violation of sec-
24 tion 8, the court may, subject to
25 clause (vi), award—

1 (aa) damages of an amount
2 not less than \$5,000 and not
3 more than \$50,000; or

4 (bb) for any willful or re-
5 peated violation, damages of an
6 amount not less than \$10,000
7 and not more than \$100,000.

8 (v) CONSIDERATIONS FOR STATUTORY
9 DAMAGES.—In determining the amount of
10 statutory damages assessed under clause
11 (iv), the court shall consider any relevant
12 circumstances presented by the parties to
13 the action, including—

14 (I) the nature and seriousness of
15 the violation;

16 (II) the number of violations;

17 (III) the persistence of the mis-
18 conduct;

19 (IV) the length of time over
20 which the misconduct occurred;

21 (V) the willfulness of the mis-
22 conduct of the employer; and

23 (VI) the assets, liabilities, and
24 net worth of the employer.

1 (vi) ADJUSTMENT FOR INFLATION.—

2 The dollar amounts referred to subclauses
3 (I) and (II) of clause (iv) shall be in-
4 creased annually, for fiscal year 2027 and
5 every fiscal year thereafter, by the percent
6 increase, if any, in the consumer price
7 index for all urban consumers for the most
8 recent 12-month period for which applica-
9 ble data is available.

10 (C) REMEDIES FOR STATE WORKERS.—

11 (i) WAIVER OF SOVEREIGN IMMUN-
12 NITY.—A State’s receipt or use of Federal
13 financial assistance for any program or ac-
14 tivity of a State shall constitute a waiver
15 of sovereign immunity, under the 11th
16 Amendment to the Constitution of the
17 United States or otherwise, to a suit
18 brought by a covered individual of that
19 program or activity, or a labor organiza-
20 tion or worker advocacy organization on
21 behalf of such a covered individual, under
22 this paragraph for equitable, legal, or other
23 relief authorized under this paragraph.

24 (ii) OFFICIAL CAPACITY.—An official
25 of a State may be sued in the official ca-

1 capacity of the official by any covered indi-
 2 vidual, or such a labor organization or
 3 worker advocacy organization, who has
 4 complied with the procedures under this
 5 paragraph, for injunctive relief that is au-
 6 thorized under this paragraph. In such a
 7 suit, the court may award to the prevailing
 8 party those costs authorized by section 722
 9 of the Revised Statutes (42 U.S.C. 1988).

10 (iii) APPLICABILITY.—With respect to
 11 a particular program or activity, clause (i)
 12 applies to conduct that occurs—

13 (I) after the date of enactment of
 14 this Act; and

15 (II) on or after the day on which
 16 a State first receives or uses Federal
 17 financial assistance for that program
 18 or activity.

19 (iv) DEFINITION OF PROGRAM OR AC-
 20 TIVITY.—In this subparagraph, the term
 21 “program or activity” has the meaning
 22 given the term in section 606 of the Civil
 23 Rights Act of 1964 (42 U.S.C. 2000d–4a).

24 (D) REMEDIES FOR TRIBAL GOVERNMENT
 25 WORKERS.—

1 (i) WAIVER OF SOVEREIGN IMMUN-
2 NITY.—A Tribal government’s receipt or
3 use of Federal financial assistance for any
4 program or activity of the Tribal govern-
5 ment shall constitute a waiver of sovereign
6 immunity to a suit brought by a covered
7 individual of that program or activity, or a
8 labor organization or worker advocacy or-
9 ganization on behalf of such a covered in-
10 dividual, under this paragraph for equi-
11 table, legal, or other relief authorized
12 under this paragraph.

13 (ii) OFFICIAL CAPACITY.—An official
14 of a Tribal government may be sued in the
15 official capacity of the official by any cov-
16 ered individual, or such a labor organiza-
17 tion or worker advocacy organization, who
18 has complied with the procedures under
19 this paragraph for injunctive relief that is
20 authorized under this paragraph. In such a
21 suit, the court may award to the prevailing
22 party those costs authorized by section 722
23 of the Revised Statutes (42 U.S.C. 1988).

1 (iii) APPLICABILITY.—With respect to
2 a particular program or activity, clause (i)
3 applies to conduct that occurs—

4 (I) after the date of enactment of
5 this Act; and

6 (II) on or after the day on which
7 a Tribal government first receives or
8 uses Federal financial assistance for
9 that program or activity.

10 (iv) DEFINITION OF PROGRAM OR AC-
11 TIVITY.—In this subparagraph, the term
12 “program or activity” has the meaning
13 given the term in section 606 of the Civil
14 Rights Act of 1964 (42 U.S.C. 2000d–4a).

15 (4) ENFORCEMENT BY THE GOVERNMENT AC-
16 COUNTABILITY OFFICE AND LIBRARY OF CON-
17 GRESS.—Notwithstanding any other provision of this
18 subsection, in the case of the Government Account-
19 ability Office and the Library of Congress, the au-
20 thority of the Secretary under this subsection shall
21 be exercised respectively by the Comptroller General
22 of the United States and the Librarian of Congress,
23 respectively.

24 (b) INDIVIDUALS COVERED BY CONGRESSIONAL AC-
25 COUNTABILITY ACT OF 1995.—The powers, remedies, and

1 procedures provided in the Congressional Accountability
2 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
3 fined in section 101 of that Act (2 U.S.C. 1301)), or any
4 person, alleging a violation of section 202(a)(1) of that
5 Act (2 U.S.C. 1312(a)(1)), shall be the powers, remedies,
6 and procedures this Act provides to that Board, or any
7 person, with regard to an allegation of a violation of sec-
8 tion 3, 4, 5, or 8 against a covered individual described
9 in section 2(4)(A)(iii) or described in section 2(4)(B) with
10 respect to an employer described in section 2(9)(A)(i)(III).

11 (c) INDIVIDUALS COVERED BY CHAPTER 5 OF TITLE
12 3, UNITED STATES CODE.—The powers, remedies, and
13 procedures provided in chapter 5 of title 3, United States
14 Code, to the President, the Merit Systems Protection
15 Board, or any person, alleging a violation of section
16 412(a)(1) of that title, shall be the powers, remedies, and
17 procedures this Act provides to the President, that Board,
18 or any person, respectively, with regard to an allegation
19 of a violation of section 3, 4, 5, or 8 against a covered
20 individual described in section 2(4)(A)(iv) or described in
21 section 2(4)(B) with respect to an employer described in
22 section 2(9)(A)(i)(IV).

23 (d) INDIVIDUALS COVERED BY CHAPTER 63 OF
24 TITLE 5, UNITED STATES CODE.—The powers, remedies,
25 and procedures provided in title 5, United States Code,

1 to an employing agency, provided in chapter 12 of that
 2 title to the Merit Systems Protection Board, or provided
 3 in that title to any person, alleging a violation of chapter
 4 63 of that title, shall be the powers, remedies, and proce-
 5 dures this Act provides to that agency, that Board, or any
 6 person, respectively, with regard to an allegation of a vio-
 7 lation of section 3, 4, 5, or 8 against a covered individual
 8 described in section 2(4)(A)(v) or described in section
 9 2(4)(B) with respect to an employer described in section
 10 2(9)(A)(i)(V).

11 (e) ENFORCEMENT BY STATES.—

12 (1) IN GENERAL.—In any case in which a State
 13 attorney general or a State privacy regulator has
 14 reason to believe that an interest of the residents of
 15 a State has been or is adversely affected by any per-
 16 son who violates any provision of section 3, 4, 5, or
 17 8, including a regulation or order prescribed under
 18 this Act, the State attorney general or State privacy
 19 regulator, as *parens patriae*, may bring a civil action
 20 on behalf of the residents of the State in an appro-
 21 priate State court or an appropriate district court of
 22 the United States to—

23 (A) enjoin further violation of such provi-
 24 sion by the person;

25 (B) compel compliance with such provision;

1 (C) obtain damages (including statutory
2 damages described in paragraph (4)), civil pen-
3 alties, restitution, or other compensation on be-
4 half of the residents of the State; or

5 (D) obtain reasonable attorney's fees and
6 other litigation costs reasonably incurred.

7 (2) RIGHTS OF AGENCY.—Before initiating a
8 civil action under paragraph (1), the State attorney
9 general or State privacy regulator, as the case may
10 be, shall notify the Secretary in writing of such civil
11 action. Upon receiving such notice, the Secretary
12 may—

13 (A) intervene in such action; and

14 (B) upon intervening—

15 (i) be heard on all matters arising in
16 such civil action; and

17 (ii) file petitions for appeal of a deci-
18 sion in such action.

19 (3) PREEMPTIVE ACTION BY AGENCY.—In any
20 case in which a civil action is instituted by or on be-
21 half of the Secretary for a violation of this Act, in-
22 cluding a regulation promulgated under this Act, a
23 State attorney general or State privacy regulator
24 may not, during the pendency of such action, insti-
25 tute a civil action against any defendant named in

1 the complaint in the action instituted by or on behalf
2 of the Secretary for a violation that is alleged in
3 such complaint. In a case brought by the Secretary
4 that affects the interests of a State, the State attorney
5 general or State privacy regulator may intervene
6 as of right pursuant to the Federal Rules of Civil
7 Procedure.

8 (4) STATUTORY DAMAGES.—In a civil action in-
9 stituted under paragraph (1), a court may award
10 statutory damages under paragraph (1)(C) against a
11 person for a violation of any provision of section 3,
12 4, 5, or 8—

13 (A) in an amount not more than \$50,000
14 for each such violation; or

15 (B) in the case of such a violation that re-
16 sults in the discharge of a covered individual or
17 other serious economic harm to a covered indi-
18 vidual by such a person who has, within the
19 preceding 5 years, committed another such vio-
20 lation resulting in such a discharge or other se-
21 rious economic harm, not more than \$100,000
22 for each such violation.

23 (5) PRESERVATION OF STATE POWERS.—Ex-
24 cept as provided in paragraph (3), no provision of
25 this subsection shall be construed as altering, lim-

1 iting, or affecting the authority of a State attorney
2 general or State privacy regulator to—

3 (A) bring an action or other regulatory
4 proceeding arising solely under the laws in ef-
5 fect in that State; or

6 (B) exercise the powers conferred on the
7 State attorney general or State privacy regu-
8 lator by the laws of the State, including the
9 ability to conduct investigations, administer
10 oaths or affirmations, or compel the attendance
11 of witnesses or the production of documentary
12 or other evidence.

13 (f) ARBITRATION AND CLASS ACTION.—

14 (1) IN GENERAL.—Notwithstanding any other
15 provision of law, no predispute arbitration agree-
16 ment or predispute joint-action waiver shall be valid
17 or enforceable with respect to any alleged violation
18 of section 3, 4, 5, or 8.

19 (2) ARBITRATION PURSUANT TO A COLLECTIVE
20 BARGAINING AGREEMENT.—Nothing in this sub-
21 section shall limit the enforceability of any arbitra-
22 tion provision in a collective bargaining agreement
23 between an employer and a labor organization or
24 worker advocacy organization.

1 **SEC. 10. COORDINATION.**

2 In carrying out this Act, the Secretary, acting
3 through the Director, shall coordinate with any appro-
4 priate Federal agency or State regulator to promote con-
5 sistent regulatory treatment of automated decision sys-
6 tems.

7 **SEC. 11. RELATION TO OTHER LAWS.**

8 Except as explicitly provided otherwise in this Act,
9 nothing in this Act, including any regulations promulgated
10 under this Act, shall be construed to preempt, modify,
11 limit, or supersede—

- 12 (1) any provision of Federal or State law; or
13 (2) the authority of the Federal Trade Commis-
14 sion, Equal Employment Opportunity Commission,
15 National Labor Relations Board, or any other Fed-
16 eral agency.

17 **SEC. 12. RELATION TO COLLECTIVE BARGAINING AGREE-**
18 **MENTS.**

19 (a) **RULE OF CONSTRUCTION.**—Nothing in this Act,
20 including any regulations promulgated under this Act,
21 shall be construed to supersede or preempt employment
22 or other work terms or conditions agreed upon in collective
23 bargaining agreements that are more protective of or more
24 beneficial to a covered individual than otherwise required
25 pursuant to this Act, including any regulation promul-
26 gated under this Act.

1 (b) REQUIREMENT FOR NOTICE AND BARGAINING.—

2 An employer shall provide advance notice to the relevant
3 collective bargaining units or the representative of any
4 covered individuals of the employer for purposes of collec-
5 tive bargaining and bargain in good faith with such units
6 or representative over the decision to implement and ef-
7 fects of implementing any policy, practice, or automated
8 decision system covered by this Act.

9 **SEC. 13. SEVERABILITY.**

10 If any provision of this Act or the application of such
11 provision to any person or circumstance is held to be un-
12 constitutional, the remainder of this Act and the applica-
13 tion of the provisions of such Act to all other persons or
14 circumstances shall not be affected thereby.

15 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

16 There is authorized to be appropriated to the Sec-
17 retary to carry out this Act \$100,000,000 for each of fis-
18 cal years 2027 through 2036.

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