

116TH CONGRESS  
2D SESSION

# H. R. 2474

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2020

Received; read twice and referred to the Committee on Health, Education,  
Labor, and Pensions

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. AMENDMENTS TO THE NATIONAL LABOR RELA-**  
5 **TIONS ACT.**

6       (a) DEFINITIONS.—

7           (1) JOINT EMPLOYER.—Section 2(2) of the Na-  
8 tional Labor Relations Act (29 U.S.C. 152(2)) is  
9 amended by adding at the end the following: “Two  
10 or more persons shall be employers with respect to  
11 an employee if each such person codetermines or  
12 shares control over the employee’s essential terms  
13 and conditions of employment. In determining  
14 whether such control exists, the Board or a court of  
15 competent jurisdiction shall consider as relevant di-  
16 rect control and indirect control over such terms and  
17 conditions, reserved authority to control such terms  
18 and conditions, and control over such terms and con-  
19 ditions exercised by a person in fact: *Provided*, That  
20 nothing herein precludes a finding that indirect or  
21 reserved control standing alone can be sufficient  
22 given specific facts and circumstances.”.

23           (2) EMPLOYEE.—Section 2(3) of the National  
24 Labor Relations Act (29 U.S.C. 152(3)) is amended  
25 by adding at the end the following: “An individual  
26 performing any service shall be considered an em-

1        ployee (except as provided in the previous sentence)  
2        and not an independent contractor, unless—

3                “(A) the individual is free from control and  
4                direction in connection with the performance of  
5                the service, both under the contract for the per-  
6                formance of service and in fact;

7                “(B) the service is performed outside the  
8                usual course of the business of the employer;  
9                and

10               “(C) the individual is customarily engaged  
11               in an independently established trade, occupa-  
12               tion, profession, or business of the same nature  
13               as that involved in the service performed.”.

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

17                (A) by inserting “and for a majority of the  
18                individual’s worktime” after “interest of the  
19                employer”;

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

21                (C) by striking “or responsibly to direct  
22                them,”.

23        (b) REPORTS.—Section 3(c) of the National Labor  
24        Relations Act is amended—

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

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

4 “(2) Effective January 1, 2021, section 3003 of the  
5 Federal Reports Elimination and Sunset Act of 1995  
6 (Public Law 166–44; 31 U.S.C. 1113 note) shall not apply  
7 with respect to reports required under this subsection.

8 “(3) Each report issued under this subsection shall  
9 include no less detail than reports issued by the Board  
10 prior to the termination of such reports under section  
11 3003 of the Federal Reports Elimination and Sunset Act  
12 of 1995 (Public Law 166–44; 31 U.S.C. 1113 note).”.

13 (c) APPOINTMENT.—Section 4(a) of the National  
14 Labor Relations Act (29 U.S.C. 154(a)) is amended by  
15 striking “, or for economic analysis”.

16 (d) UNFAIR LABOR PRACTICES.—Section 8 of the  
17 National Labor Relations Act (29 U.S.C. 158) is amend-  
18 ed—

19 (1) in subsection (a)—

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

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

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

24 “(A) to permanently replace an employee  
25 who participates in a strike as defined by sec-

tion 501(2) of the Labor Management Relations Act, 1947 (29 U.S.C. 142(2));

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

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

“(7) to communicate or misrepresent to an employee under section 2(3) that such employee is excluded from the definition of employee under section 2(3).”;

(2) in subsection (b)—

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

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

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

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

1           (3) in subsection (c), by striking the period at  
2           the end and inserting the following: “: *Provided*,  
3           That it shall be an unfair labor practice under sub-  
4           section (a)(1) for any employer to require or coerce  
5           an employee to attend or participate in such employ-  
6           er’s campaign activities unrelated to the employee’s  
7           job duties, including activities that are subject to the  
8           requirements under section 203(b) of the Labor-  
9           Management Reporting and Disclosure Act of 1959  
10          (29 U.S.C. 433(b)).”;

11          (4) in subsection (d)—

12                (A) by redesignating paragraphs (1)  
13                through (4) as subparagraphs (A) through (D),  
14                respectively;

15                (B) by striking “For the purposes of this  
16                section” and inserting “(1) For purposes of this  
17                section”;

18                (C) by inserting “and to maintain current  
19                wages, hours, and working conditions pending  
20                an agreement” after “arising thereunder”;

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

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

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

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

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

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

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

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

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

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

1 mence to bargain collectively and shall make every  
2 reasonable effort to conclude and sign a collective  
3 bargaining agreement.

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

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



1 parties. The labor organization and employer must  
2 each select the members of the tripartite arbitration  
3 panel within 14 days of the Service's referral; if the  
4 labor organization or employer fail to do so, the  
5 Service shall designate any members not selected by  
6 the labor organization or the employer. A majority  
7 of the tripartite arbitration panel shall render a deci-  
8 sion settling the dispute and such decision shall be  
9 binding upon the parties for a period of 2 years, un-  
10 less amended during such period by written consent  
11 of the parties. Such decision shall be based on—

12 “(i) the employer's financial status and  
13 prospects;

14 “(ii) the size and type of the employer's  
15 operations and business;

16 “(iii) the employees' cost of living;

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

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

24 (5) by amending subsection (e) to read as fol-  
25 lows:

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

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

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

18               “(3) to retaliate or threaten to retaliate against  
19 an employee for refusing to undertake or promise  
20 not to pursue, bring, join, litigate, or support any  
21 kind of joint, class, or collective claim arising from  
22 or relating to the employment of such employee:  
23 *Provided*, That any agreement that violates this sub-  
24 section or results from a violation of this subsection  
25 shall be to such extent unenforceable and void: *Pro-*

1       *vided further*, That this subsection shall not apply to  
2       any agreement embodied in or expressly permitted  
3       by a contract between an employer and a labor orga-  
4       nization.”;

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

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

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

20       “(2) Whenever the Board directs an election under  
21      section 9(c) or approves an election agreement, the em-  
22      ployer of employees in the bargaining unit shall, not later  
23      than 2 business days after the Board directs such election  
24      or approves such election agreement, provide a voter list  
25      to a labor organization that has petitioned to represent

1 such employees. Such voter list shall include the names  
2 of all employees in the bargaining unit and such employ-  
3 ees' home addresses, work locations, shifts, job classifica-  
4 tions, and, if available to the employer, personal landline  
5 and mobile telephone numbers, and work and personal  
6 email addresses; the voter list must be provided in a  
7 searchable electronic format generally approved by the  
8 Board unless the employer certifies that the employer does  
9 not possess the capacity to produce the list in the required  
10 form. Not later than 9 months after the date of enactment  
11 of the Protecting the Right to Organize Act of 2019, the  
12 Board shall promulgate regulations implementing the re-  
13 quirements of this paragraph.

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

23 (e) REPRESENTATIVES AND ELECTIONS.—Section 9  
24 of the National Labor Relations Act (29 U.S.C. 159) is  
25 amended—

1 (1) in subsection (c)—

2 (A) by amending paragraph (1) to read as  
3 follows:

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

1 in the proposed unit share a community of interest, and  
2 if the employees outside the unit do not share an over-  
3 whelming community of interest with employees inside. At  
4 the request of the labor organization, the Board shall di-  
5 rect that the election be conducted through certified mail,  
6 electronically, at the work location, or at a location other  
7 than one owned or controlled by the employer. No em-  
8 ployer shall have standing as a party or to intervene in  
9 any representation proceeding under this section.”;

10 (B) in paragraph (3), by striking “an eco-  
11 nomic strike who are not entitled to reinstate-  
12 ment” and inserting “a strike”;

13 (C) by redesignating paragraphs (4) and  
14 (5) as paragraphs (6) and (7), respectively;

15 (D) by inserting after paragraph (3) the  
16 following:

17 “(4) If the Board finds that, in an election under  
18 paragraph (1), a majority of the valid votes cast in a unit  
19 appropriate for purposes of collective bargaining have been  
20 cast in favor of representation by the labor organization,  
21 the Board shall certify the labor organization as the rep-  
22 resentative of the employees in such unit and shall issue  
23 an order requiring the employer of such employees to col-  
24 lectively bargain with the labor organization in accordance  
25 with section 8(d). This order shall be deemed an order

1 under section 10(c) of this Act, without need for a deter-  
2 mination of an unfair labor practice.

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

9 “(B) In any case in which a majority of the valid  
10 votes cast in a unit appropriate for purposes of collective  
11 bargaining have not been cast in favor of representation  
12 by the labor organization and the Board determines that  
13 the election should be set aside because the employer has  
14 committed a violation of this Act or otherwise interfered  
15 with a fair election, and the employer has not dem-  
16 onstrated that the violation or other interference is un-  
17 likely to have affected the outcome of the election, the  
18 Board shall, without ordering a new election, certify the  
19 labor organization as the representative of the employees  
20 in such unit and issue an order requiring the employer  
21 to bargain with the labor organization in accordance with  
22 section 8(d) if, at any time during the period beginning  
23 1 year preceding the date of the commencement of the  
24 election and ending on the date upon which the Board  
25 makes the determination of a violation or other inter-

1 ference, a majority of the employees in the bargaining unit  
2 have signed authorizations designating the labor organiza-  
3 tion as their collective bargaining representative.

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

10 (E) by inserting after paragraph (7), as so  
11 redesignated, the following:

12 “(8) Except under extraordinary circumstances—

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

18 “(B) a regional director shall transmit the no-  
19 tice of election at the same time as the direction of  
20 election, and shall transmit such notice and such di-  
21 rection electronically (including transmission by  
22 email or facsimile) or by overnight mail if electronic  
23 transmission is unavailable;

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



1           “(i) post the Notice of Petition for Elec-  
2           tion in conspicuous places, including all places  
3           where notices to employees are customarily  
4           posted;

5           “(ii) if the employer customarily commu-  
6           nicates with employees electronically, distribute  
7           such Notice electronically; and

8           “(iii) maintain such posting until the peti-  
9           tion is dismissed or withdrawn or the Notice of  
10          Petition for Election is replaced by the Notice  
11          of Election;

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

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

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

21          (3) by adding at the end the following new sub-  
22          section:

23          “(f) The Board shall dismiss any petition for an elec-  
24          tion with respect to a bargaining unit or any subdivision  
25          if, during the preceding 12-month period, the employer

1 has recognized a labor organization without an election  
2 and in accordance with this Act.”.

3 (f) PREVENTION OF UNFAIR LABOR PRACTICES.—  
4 Section 10(c) of the National Labor Relations Act (29  
5 U.S.C. 160(c)) is amended by striking “suffered by him”  
6 and inserting “suffered by such employee: *Provided fur-*  
7 *ther*, That if the Board finds that an employer has dis-  
8 criminated against an employee in violation of paragraph  
9 (3) or (4) of section 8(a) or has committed a violation  
10 of section 8(a) that results in the discharge of an employee  
11 or other serious economic harm to an employee, the Board  
12 shall award the employee back pay without any reduction  
13 (including any reduction based on the employee’s interim  
14 earnings or failure to earn interim earnings), front pay  
15 (when appropriate), consequential damages, and an addi-  
16 tional amount as liquidated damages equal to two times  
17 the amount of damages awarded: *Provided further*, no re-  
18 lief under this subsection shall be denied on the basis that  
19 the employee is, or was during the time of relevant em-  
20 ployment or during the back pay period, an unauthorized  
21 alien as defined in section 274A(h)(3) of the Immigration  
22 and Nationality Act (8 U.S.C. 1324a(h)(3)) or any other  
23 provision of Federal law relating to the unlawful employ-  
24 ment of aliens”.

1       (g) ENFORCING COMPLIANCE WITH ORDERS OF THE  
2 BOARD.—

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

6                   (A) by striking subsection (e);

7                   (B) by redesignating subsection (d) as sub-  
8 section (e);

9                   (C) by inserting after subsection (c) the  
10 following:

11       “(d)(1) Each order of the Board shall take effect  
12 upon issuance of such order, unless otherwise directed by  
13 the Board, and shall remain in effect unless modified by  
14 the Board or unless a court of competent jurisdiction  
15 issues a superseding order.

16       “(2) Any person who fails or neglects to obey an  
17 order of the Board shall forfeit and pay to the Board a  
18 civil penalty of not more than \$10,000 for each violation,  
19 which shall accrue to the United States and may be recov-  
20 ered in a civil action brought by the Board to the district  
21 court of the United States in which the unfair labor prac-  
22 tice or other subject of the order occurred, or in which  
23 such person or entity resides or transacts business. No ac-  
24 tion by the Board under this paragraph may be made until  
25 30 days following the issuance of an order. Each separate

1 violation of such an order shall be a separate offense, ex-  
2 cept that, in the case of a violation in which a person fails  
3 to obey or neglects to obey a final order of the Board,  
4 each day such failure or neglect continues shall be deemed  
5 a separate offense.

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

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

17 “(B) enjoin such person or entity, officers,  
18 agents, or representatives to obedience to the  
19 same.”;

20 (D) in subsection (f)—

21 (i) by striking “proceed in the same  
22 manner as in the case of an application by  
23 the Board under subsection (e) of this sec-  
24 tion,” and inserting “proceed as provided  
25 under paragraph (2) of this subsection”;

1 (ii) by striking “Any” and inserting  
2 the following: “

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

5 (iii) by adding at the end the fol-  
6 lowing:

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

1 supported by substantial evidence on the record considered  
 2 as a whole shall be conclusive, and shall file its rec-  
 3 ommendations, if any, for the modification or setting aside  
 4 of its original order. Upon the filing of the record with  
 5 it the jurisdiction of the court shall be exclusive and its  
 6 judgment and decree shall be final, except that the same  
 7 shall be subject to review by the appropriate United States  
 8 court of appeals if application was made to the district  
 9 court, and by the Supreme Court of the United States  
 10 upon writ of certiorari or certification as provided in sec-  
 11 tion 1254 of title 28, United States Code.”; and

12 (E) in subsection (g), by striking “sub-  
 13 section (e) or (f) of this section” and inserting  
 14 “subsection (d) or (f)”.

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

19 (h) INJUNCTIONS AGAINST UNFAIR LABOR PRAC-  
 20 TICES INVOLVING DISCHARGE OR OTHER SERIOUS ECO-  
 21 NOMIC HARM.—Section 10 of the National Labor Rela-  
 22 tions Act (29 U.S.C. 160) is amended—

23 (1) in subsection (j)—

24 (A) by striking “The Board” and inserting  
 25 “(1) The Board”; and

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

2 “(2) Notwithstanding subsection (m), whenever it is  
3 charged that an employer has engaged in an unfair labor  
4 practice within the meaning of paragraph (1) or (3) of  
5 section 8(a) that significantly interferes with, restrains, or  
6 coerces employees in the exercise of the rights guaranteed  
7 under section 7, or involves discharge or other serious eco-  
8 nomic harm to an employee, the preliminary investigation  
9 of such charge shall be made forthwith and given priority  
10 over all other cases except cases of like character in the  
11 office where it is filed or to which it is referred. If, after  
12 such investigation, the officer or regional attorney to  
13 whom the matter may be referred has reasonable cause  
14 to believe such charge is true and that a complaint should  
15 issue, such officer or attorney shall bring a petition for  
16 appropriate temporary relief or restraining order as set  
17 forth in paragraph (1). The district court shall grant the  
18 relief requested unless the court concludes that there is  
19 no reasonable likelihood that the Board will succeed on  
20 the merits of the Board’s claim.”; and

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

22 (i) PENALTIES.—

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

1 (A) by striking “SEC. 12. Any person” and  
2 inserting the following:

3 **“SEC. 12. PENALTIES.**

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

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

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

12 “(1) state the findings of fact supporting such  
13 determination;

14 “(2) issue and cause to be served on such em-  
15 ployer an order requiring that such employer comply  
16 with section 8(h) or regulations issued thereunder;  
17 and

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

22 **“(c) CIVIL PENALTIES FOR VIOLATIONS.—**

23 “(1) IN GENERAL.—Any employer who commits  
24 an unfair labor practice within the meaning of sec-  
25 tion 8(a) shall, in addition to any remedy ordered by



1 the Board, be subject to a civil penalty in an amount  
2 not to exceed \$50,000 for each violation, except  
3 that, with respect to an unfair labor practice within  
4 the meaning of paragraph (3) or (4) of section 8(a)  
5 or a violation of section 8(a) that results in the dis-  
6 charge of an employee or other serious economic  
7 harm to an employee, the Board shall double the  
8 amount of such penalty, to an amount not to exceed  
9 \$100,000, in any case where the employer has with-  
10 in the preceding 5 years committed another such  
11 violation.

12 “(2) CONSIDERATIONS.—In determining the  
13 amount of any civil penalty under this subsection,  
14 the Board shall consider—

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

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

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

22 “(3) DIRECTOR AND OFFICER LIABILITY.—If  
23 the Board determines, based on the particular facts  
24 and circumstances presented, that a director or offi-  
25 cer’s personal liability is warranted, a civil penalty

1 for a violation described in this subsection may also  
2 be assessed against any director or officer of the em-  
3 ployer who directed or committed the violation, had  
4 established a policy that led to such a violation, or  
5 had actual or constructive knowledge of and the au-  
6 thority to prevent the violation and failed to prevent  
7 the violation.

8 “(d) RIGHT TO CIVIL ACTION.—

9 “(1) IN GENERAL.—Any person who is injured  
10 by reason of a violation of paragraph (1) or (3) of  
11 section 8(a) may, after 60 days following the filing  
12 of a charge with the Board alleging an unfair labor  
13 practice, bring a civil action in the appropriate dis-  
14 trict court of the United States against the employer  
15 within 90 days after the expiration of the 60-day pe-  
16 riod or the date the Board notifies the person that  
17 no complaint shall issue, whichever occurs earlier,  
18 provided that the Board has not filed a petition  
19 under section 10(j) of this Act prior to the expira-  
20 tion of the 60-day period. No relief under this sub-  
21 section shall be denied on the basis that the em-  
22 ployee is, or was during the time of relevant employ-  
23 ment or during the back pay period, an unauthor-  
24 ized alien as defined in section 274A(h)(3) of the  
25 Immigration and Nationality Act (8 U.S.C.

1       1324a(h)(3)) or any other provision of Federal law  
2       relating to the unlawful employment of aliens.

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

5           “(A) back pay without any reduction, in-  
6       cluding any reduction based on the employee’s  
7       interim earnings or failure to earn interim earn-  
8       ings;

9           “(B) front pay (when appropriate);

10          “(C) consequential damages;

11          “(D) an additional amount as liquidated  
12       damages equal to two times the cumulative  
13       amount of damages awarded under subpara-  
14       graphs (A) through (C);

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

17          “(F) any other relief authorized by section  
18       706(g) of the Civil Rights Act of 1964 (42  
19       U.S.C. 2000e–5(g)) or by section 1977A(b) of  
20       the Revised Statutes (42 U.S.C. 1981a(b)).

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

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

4                   “(A) the gravity of the unfair labor prac-  
5       tice;

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

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

11           (2) CONFORMING AMENDMENTS.—Section  
12       10(b) of the National Labor Relations Act (29  
13       U.S.C. 160(b)) is amended—

14                   (A) by striking “six months” and inserting  
15       “180 days”; and

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

18       (j) LIMITATIONS.—Section 13 of the National Labor  
19       Relations Act (29 U.S.C. 163) is amended by striking the  
20       period at the end and inserting the following: “: *Provided*,  
21       That the duration, scope, frequency, or intermittence of  
22       any strike or strikes shall not render such strike or strikes  
23       unprotected or prohibited.”.

24       (k) FAIR SHARE AGREEMENTS PERMITTED.—Sec-  
25       tion 14(b) of the National Labor Relations Act (29 U.S.C.

1 164(b)) is amended by striking the period at the end and  
2 inserting the following: “: *Provided*, That collective bar-  
3 gaining agreements providing that all employees in a bar-  
4 gaining unit shall contribute fees to a labor organization  
5 for the cost of representation, collective bargaining, con-  
6 tract enforcement, and related expenditures as a condition  
7 of employment shall be valid and enforceable notwith-  
8 standing any State or Territorial law.”.

9 **SEC. 3. CONFORMING AMENDMENTS TO THE LABOR MAN-**  
10 **AGEMENT RELATIONS ACT, 1947.**

11 The Labor Management Relations Act, 1947 is  
12 amended—

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

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

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

3 (a) IN GENERAL.—Section 203(c) of the Labor-Man-  
4 agement Reporting and Disclosure Act of 1959 (29 U.S.C.  
5 433(c)) is amended by striking the period at the end and  
6 inserting the following “: *Provided*, That this subsection  
7 shall not exempt from the requirements of this section any  
8 arrangement or part of an arrangement in which a party  
9 agrees, for an object described in subsection (b)(1), to plan  
10 or conduct employee meetings; train supervisors or em-  
11 ployer representatives to conduct meetings; coordinate or  
12 direct activities of supervisors or employer representatives;  
13 establish or facilitate employee committees; identify em-  
14 ployees for disciplinary action, reward, or other targeting;  
15 or draft or revise employer personnel policies, speeches,  
16 presentations, or other written, recorded, or electronic  
17 communications to be delivered or disseminated to employ-  
18 ees.”.

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

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

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

1 “WHISTLEBLOWER PROTECTIONS

2 “SEC. 611. (a) IN GENERAL.—No employer or labor  
3 organization shall terminate or in any other way discrimi-  
4 nate against, or cause to be terminated or discriminated  
5 against, any applicant, covered employee, or former cov-  
6 ered employee, of the employer or the labor organization  
7 by reason of the fact that such applicant, covered em-  
8 ployee, or former covered employee does, or the employer  
9 or labor organization perceives the employee to do, any  
10 of the following:

11 “(1) Provide, cause to be provided, or is about  
12 to provide or cause to be provided, information to  
13 the labor organization, the Department of Labor, or  
14 any other State, local, or Federal Government au-  
15 thority or law enforcement agency relating to any  
16 violation of, or any act or omission that such em-  
17 ployee reasonably believes to be a violation of, any  
18 provision of this Act.

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

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

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

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

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

11          “(c) PROCEDURES AND TIMETABLES.—

12           “(1) COMPLAINT.—

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

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

24           “(ii) 180 days after the date upon  
25           which the employee knows or should rea-



1 sonably have known that such alleged vio-  
2 lation in subsection (a) occurred.

3 “(B) ACTIONS OF SECRETARY OF  
4 LABOR.—Upon receipt of such a complaint, the  
5 Secretary of Labor shall notify, in writing, the  
6 person named in the complaint who is alleged  
7 to have committed the violation, of—

8 “(i) the filing of the complaint;

9 “(ii) the allegations contained in the  
10 complaint;

11 “(iii) the substance of evidence sup-  
12 porting the complaint; and

13 “(iv) opportunities that will be af-  
14 farded to such person under paragraph  
15 (2).

16 “(2) INVESTIGATION BY SECRETARY OF  
17 LABOR.—

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

1           portunity to meet with a representative of the  
2           Secretary of Labor to present statements from  
3           witnesses, the Secretary of Labor shall—

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

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

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

22               “(3) BURDENS OF PROOF.—

23                   “(A) CRITERIA FOR DETERMINATION.—In  
24                   making a determination or adjudicating a com-  
25                   plaint pursuant to this subsection, the Sec-

1           retary, an administrative law judge or a court  
2           may determine that a violation of subsection (a)  
3           has occurred only if the complainant dem-  
4           onstrates that any conduct described in sub-  
5           section (a) with respect to the complainant was  
6           a contributing factor in the adverse action al-  
7           leged in the complaint.

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

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

24          “(D) REQUEST FOR HEARING.—Not later  
25          than 30 days after the date of receipt of notifi-

1 cation of a determination of the Secretary of  
2 Labor under this paragraph, either the person  
3 alleged to have committed the violation or the  
4 complainant may file objections to the findings  
5 or preliminary order, or both, and request a  
6 hearing on the record. The filing of such objec-  
7 tions shall not operate to stay any reinstate-  
8 ment remedy contained in the preliminary  
9 order. Any such hearing shall be conducted ex-  
10 peditiously, and if a hearing is not requested in  
11 such 30-day period, the preliminary order shall  
12 be deemed a final order that is not subject to  
13 judicial review.

14 “(E) PROCEDURES.—

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

21 “(ii) SUBPOENAS; PRODUCTION OF  
22 EVIDENCE.—In conducting any such hear-  
23 ing, the administrative law judge may issue  
24 subpoenas. The respondent or complainant  
25 may request the issuance of subpoenas

1           that require the deposition of, or the at-  
2           tendance and testimony of, witnesses and  
3           the production of any evidence (including  
4           any books, papers, documents, or record-  
5           ings) relating to the matter under consid-  
6           eration.

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

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

20          “(B) AVAILABLE RELIEF.—

21               “(i) ORDER OF SECRETARY OF  
22               LABOR.—If, in response to a complaint  
23               filed under paragraph (1), the Secretary of  
24               Labor determines that a violation of sub-  
25               section (a) has occurred, the Secretary of

1 Labor shall order the person who com-  
2 mitted such violation—

3 “(I) to take affirmative action to  
4 abate the violation;

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

12 “(III) to provide compensatory  
13 damages to the complainant; and

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

1                   lieves may have received such unfavor-  
2                   able information.

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

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

22                  “(D) DE NOVO REVIEW.—

23                  “(i) FAILURE OF THE SECRETARY TO  
24                  ACT.—If the Secretary of Labor has not  
25                  issued a final order within 270 days after

1 the date of filing of a complaint under this  
2 subsection, or within 90 days after the  
3 date of receipt of a written determination,  
4 the complainant may bring an action at  
5 law or equity for de novo review in the ap-  
6 propriate district court of the United  
7 States having jurisdiction, which shall have  
8 jurisdiction over such an action without re-  
9 gard to the amount in controversy, and  
10 which action shall, at the request of either  
11 party to such action, be tried by the court  
12 with a jury.

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

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



1                   “(II) the amount of back pay,  
2                   with interest;

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

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

22                  “(E) OTHER APPEALS.—Unless the com-  
23                  plainant brings an action under subparagraph  
24                  (D), any person adversely affected or aggrieved  
25                  by a final order issued under subparagraph (A)

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

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

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

1 of Columbia, to enforce such order. In actions  
2 brought under this paragraph, the district  
3 courts shall have jurisdiction to grant all appro-  
4 priate relief including injunctive relief, compen-  
5 satory and punitive damages.

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

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

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

1       “(d) UNENFORCEABILITY OF CERTAIN AGREE-  
2 MENTS.—Notwithstanding any other provision of law, the  
3 rights and remedies provided for in this section may not  
4 be waived by any agreement, policy, form, or condition of  
5 employment, including by any predispute arbitration  
6 agreement.

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

12 **SEC. 5. RULE OF CONSTRUCTION.**

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

16 **SEC. 6. GAO REPORT ON SECTORAL BARGAINING.**

17       (a) IN GENERAL.—Not later than 2 years after the  
18 date of enactment of this Act, the Comptroller General,  
19 in consultation with the persons described in subsection  
20 (b), shall prepare and submit to the Committee on Edu-  
21 cation and Labor of the House of Representatives and the  
22 Committee on Health, Education, Labor, and Pensions of  
23 the Senate a report, that—

24               (1) identifies and analyzes the laws, policies,  
25       and procedures in countries outside the United

1 States governing collective bargaining at the level of  
2 an industry sector, including the laws, policies, and  
3 procedures involved in—

4 (A) the administrative system facilitating  
5 such bargaining;

6 (B) how collective bargaining agreements  
7 are rendered binding on all firms in an industry  
8 sector;

9 (C) defining an industry sector;

10 (D) the relationship between collective bar-  
11 gaining at the level of an individual employer or  
12 group of employers and at the level of an indus-  
13 try sector;

14 (E) the designation of representatives for  
15 collective bargaining at the level of an industry  
16 sector;

17 (F) the scope of collective bargaining and  
18 impasses at the level of an industry sector; and

19 (G) the provision or administration of ben-  
20 efits by labor organizations (such as unemploy-  
21 ment insurance), or union security at the firm  
22 level or the level of an industry sector, to cover  
23 the costs of collective bargaining at the level of  
24 an industry sector;

1           (2) conducts a comparative analysis of the laws,  
2           policies, and procedures specified in paragraph (1)  
3           that have been enacted in countries outside the  
4           United States;

5           (3) to the extent practicable, identifies the ef-  
6           fects of such laws, policies, and procedures on—

7                   (A) the wages and compensation of em-  
8                   ployees;

9                   (B) the number of employees,  
10                  disaggregated by full-time and part-time em-  
11                  ployees;

12                  (C) prices, sales, and revenues;

13                  (D) employee turnover and retention;

14                  (E) hiring and training costs;

15                  (F) productivity and absenteeism; and

16                  (G) the development of emerging indus-  
17                  tries, including those that engage their  
18                  workforces through technology; and

19           (4) describes the methodology used to generate  
20           the information in the report.

21           (b) EXPERT CONSULTATION.—The persons described  
22           in this subsection are—

23                   (1) workers and the labor organizations rep-  
24                   resenting such workers;

25                   (2) representatives of businesses;

- 1 (3) the National Labor Relations Board;
- 2 (4) the International Labor Organization; and
- 3 (5) the International Labor Affairs Bureau of
- 4 the Department of Labor.

5 (c) CONGRESSIONAL ASSESSMENT AND REC-  
6 OMMENDATIONS.—Not later than 60 days after the date  
7 on which the report is submitted under subsection (a), the  
8 Committee on Education and Labor of the House of Rep-  
9 resentatives and the Committee on Health, Education,  
10 Labor, and Pensions of the Senate shall—

- 11 (1) assess the findings of such report; and
- 12 (2) make recommendations with respect to ac-
- 13 tions of Congress to address the findings of such re-
- 14 port.

15 **SEC. 7. RULE OF CONSTRUCTION.**

16 The amendments made under this Act shall not be  
17 construed to affect the definitions of “employer” or “em-  
18 ployee” under the laws of any State that govern the wages,  
19 work hours, workers’ compensation, or unemployment in-  
20 surance of employees.

21 **SEC. 8. RULE OF CONSTRUCTION.**

22 The amendments made under this Act shall not be  
23 construed to affect the privacy of employees with respect  
24 to voter lists provided to labor organizations by employers  
25 pursuant to elections directed by the Board.

10 SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Passed the House of Representatives February 6,  
2020.

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