

115TH CONGRESS
2D SESSION

H. R. 6080

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2018

Mr. SCOTT of Virginia (for himself, Mr. SABLAN, Mr. TAKANO, Mr. ESPAILLAT, Ms. BONAMICI, Ms. WILSON of Florida, Mr. POCAN, Ms. DELAURO, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. GARAMENDI, Mr. DESAULNIER, Ms. JUDY CHU of California, Ms. SCHAKOWSKY, Ms. NORTON, Mr. CICILLINE, Mr. KHANNA, Mr. BRADY of Pennsylvania, Mr. NORCROSS, Ms. ROYBAL-ALLARD, Mr. CUMMINGS, Mrs. WATSON COLEMAN, Mrs. DAVIS of California, Mrs. NAPOLITANO, Mr. NADLER, Mr. PALLONE, Ms. SÁNCHEZ, Ms. SHEA-PORTER, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. LOWENTHAL, Ms. HANABUSA, Mr. ELLISON, Mr. AL GREEN of Texas, Mrs. DINGELL, Mr. LAMB, and Mr. COURTNEY) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the National Labor Relations Act, the Labor Management Relations Act, 1947, the Labor-Management Reporting and Disclosure Act, 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 “Workers’ Freedom to
3 Negotiate Act of 2018”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

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

15 (2) According to the Bureau of Labor Statis-
16 tics, union members earn 25.6 percent more than
17 workers who are not covered by a collective bar-
18 gaining agreement. Workers who are represented by
19 a union are 28 percent more likely to be offered
20 health insurance through work and nearly 5 times
21 more likely to have defined benefit pensions. The
22 wage differential is significant for women and people
23 of color. African-American union members earn 25
24 percent more than African-American workers who
25 are not covered by a collective bargaining agreement,
26 and Latino union members earn 42.6 percent more

1 than Latino workers who are not covered by a collec-
2 tive bargaining agreement. Women union members
3 earn 30 percent more than women who are not cov-
4 ered by a collective bargaining agreement, and the
5 wage gap between men and women is much smaller
6 at workplaces covered by a collective bargaining
7 agreement because collective bargaining agreements
8 ensure the same rate is paid to workers for a par-
9 ticular job without regard to gender. The wage and
10 benefit gains achieved through collective bargaining
11 agreements benefit both workers and their commu-
12 nities.

13 (3) Unions and collective bargaining ensure
14 that productivity gains are shared by working peo-
15 ple. The decline in the percentage of workers covered
16 by collective bargaining has contributed to sky-
17 rocketing income inequality and wage stagnation for
18 the average worker.

19 (4) The National Labor Relations Act protects
20 the right of workers to join together with their co-
21 workers in concerted activities for their mutual aid
22 or protection. This protection applies broadly to all
23 concerted activities by workers aimed at improving
24 the terms and conditions of their employment or aid-
25 ing each other in any way, regardless of whether

1 workers are seeking to form a union or engage in
2 collective bargaining with their employer.

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

19 (6) Retaliation by employers against workers
20 who exercise their rights under the National Labor
21 Relations Act persists at troubling levels. Employers
22 routinely fire workers for trying to form a union at
23 their workplace. In one out of 3 organizing cam-
24 paigns, one or more workers are discharged for sup-
25 porting or joining a union.

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

13 (8) Unlike orders of other Federal agencies, the
14 orders of the National Labor Relations Board are
15 not enforced until the Board seeks enforcement from
16 the Court of Appeals. As far back as 1969, the Ad-
17 ministrative Conference of the United States recog-
18 nized that the absence of a self-enforcing agency
19 order imposes wasteful delays in the enforcement of
20 the National Labor Relations Act, and recommended
21 that the Board's orders be made self-enforcing like
22 those of other agencies. Congress did not act upon
23 this recommendation, and delays in the Board's en-
24 forcement remain a problem undermining the effec-
25 tiveness of the Act.

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

5 (10) Too often, workers who choose to form
6 unions are frustrated when their employers use delay
7 and other tactics to avoid reaching an initial collec-
8 tive bargaining agreement. Estimates are that in as
9 many as half of new organizing campaigns, workers
10 and their employers fail to reach an initial collective
11 bargaining agreement.

12 (11) While the National Labor Relations Act
13 guarantees workers the right to strike, courts have
14 permitted employers to “permanently replace” work-
15 ers who exercise their right to strike. This is con-
16 trary to Congress’s intent in enacting the National
17 Labor Relations Act and has led to confusion
18 amongst workers regarding to their right to strike.

19 (12) Hearings under section 9 of the National
20 Labor Relations Act (29 U.S.C. 159) exist to assure
21 to employees the fullest freedom in exercising the
22 rights guaranteed by the Act. However, some em-
23 ployers have abused the representation process of
24 the National Labor Relations Board to impede work-

1 ers from freely choosing their own representatives
2 and exercising their rights under the Act.

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

16 (14) Restrictions on so-called “secondary boy-
17 cotts” and “recognitional picketing” unduly impede
18 workers’ ability to engage in peaceful conduct and
19 expression. Workers must be free to act in solidarity
20 with workers in other workplaces in order to improve
21 labor standards and achieve other lawful ends for
22 mutual aid or protection.

23 (15) In order to make the right to collective
24 bargaining and freedom of association in the work-

1 place a reality for workers, the National Labor Rela-
2 tions Act must be strengthened.

3 **SEC. 3. PURPOSES.**

4 The purposes of this Act are—

5 (1) to strengthen protections for employees en-
6 gaged in collective bargaining to improve their
7 wages, hours, and terms and conditions of employ-
8 ment;

9 (2) to expand coverage under the National
10 Labor Relations Act (29 U.S.C. 151 et seq.) to more
11 employees;

12 (3) to provide a process by which workers and
13 employers can successfully negotiate an initial collec-
14 tive bargaining agreement;

15 (4) to provide a stronger deterrent and fairer
16 remedies for workers who face retaliation, discrimi-
17 nation, or other interference with their legal rights
18 to act concertedly, join a union, or engage in collec-
19 tive bargaining;

20 (5) to broadly protect employees' right to en-
21 gage in concerted activities for mutual aid or protec-
22 tion;

23 (6) to streamline the enforcement procedures of
24 the National Labor Relations Board to provide for
25 more timely and effective enforcement of the law;

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

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

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

8 (10) to improve the purchasing power of wage
9 earners in industry;

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

13 (12) to redress the inequality of bargaining
14 power between employees and employers.

15 **TITLE I—AMENDMENTS TO**
16 **LABOR LAWS**

17 **SEC. 101. AMENDMENTS TO THE NATIONAL LABOR RELA-**
18 **TIONS ACT.**

19 (a) DEFINITIONS OF EMPLOYEE AND SUPERVISOR.—

20 (1) Section 2(3) of the National Labor Rela-
21 tions Act (29 U.S.C. 152) is amended by inserting
22 at the end the following: “An individual performing
23 any service shall be considered an employee (except
24 as provided in the previous sentence) and not an

1 independent contractor for purposes of this Act, un-
2 less—

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 (2) Section 2(11) of the National Labor Rela-
15 tions Act (29 U.S.C. 152(11)) is amended—

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

19 (B) by striking “assign,”; and

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

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

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

4 (1) in subsection (a)—

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

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

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

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

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

18 (2) in subsection (b)—

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

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

22 (C) in paragraph (4), as so redesignated,
23 by adding “and” at the end; and

24 (D) in paragraph (5), as so redesignated,
25 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 campaign ac-
6 tivities unrelated to the employee’s job duties, in-
7 cluding activities that are subject to the require-
8 ments under section 203(b) of the Labor-Manage-
9 ment Reporting and Disclosure Act, 1959 (29
10 U.S.C. 433(b)).”;

11 (4) by amending subsection (e) to read as fol-
12 lows:

13 “(e) Notwithstanding chapter 1 of title 9, United
14 States Code (commonly known as the ‘Federal Arbitration
15 Act’), or any other provision of law, it shall be an unfair
16 labor practice under subsection (a)(1) for any employer
17 to enter into any contract or agreement, express or im-
18 plied, whereby an employee of the employer undertakes or
19 promises not to pursue, bring, join, litigate, or support any
20 kind of collective legal claim arising from or relating to
21 the employment of such employee in any forum that, but
22 for such contract or agreement, is of competent jurisdic-
23 tion. The provisions of this subsection shall not apply with
24 respect to employees who are represented by a labor orga-
25 nization and covered by a collective-bargaining agreement

1 in effect with the employer. Any contract or agreement
2 entered into heretofore or hereafter containing an agree-
3 ment prohibited by this subsection shall be to such extent
4 unenforceable and void.”; and

5 (5) by adding at the end the following:

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

16 “(2) Whenever the Board directs an election under
17 section 9(c) or approves an election agreement, the em-
18 ployer of employees in the bargaining unit shall, not later
19 than 2 business days after the Board directs such election
20 or approves such election agreement, provide a voter list
21 to a labor organization that has petitioned to represent
22 such employees. Such voter list shall include the names
23 of all employees in the bargaining unit and such employ-
24 ees’ home addresses, work locations, shifts, job classifica-
25 tions, and, if available to the employer, personal landline

1 and mobile phone numbers, and work and personal email
2 addresses. Not later than 9 months after the date of en-
3 actment of the Workers' Freedom to Negotiate Act of
4 2018, the Board shall promulgate regulations imple-
5 menting the requirements of this paragraph.

6 “(i) Whenever collective bargaining is for the purpose
7 of establishing an initial agreement following certification
8 or recognition, the provisions of subsection (d) shall be
9 modified as follows:

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

19 “(2) If after the expiration of the 90-day period
20 beginning on the date on which bargaining is com-
21 menced, or such additional period as the parties may
22 agree upon, the parties have failed to reach an
23 agreement, either party may notify the Federal Me-
24 diation and Conciliation Service of the existence of
25 a dispute and request mediation. Whenever such a

1 request is received, it shall be the duty of the Service
2 promptly to put itself in communication with the
3 parties and to use its best efforts, by mediation and
4 conciliation, to bring them to agreement.

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

22 “(A) the employer’s financial status and
23 prospects;

24 “(B) the size and type of the employer’s
25 operations and business;

1 “(C) the employees’ cost of living;

2 “(D) the employees’ ability to sustain
3 themselves, their families, and their dependents
4 on the wages and benefits they earn from the
5 employer; and

6 “(E) the wages and benefits other employ-
7 ers in the same business provide their employ-
8 ees.”.

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

12 (1) in subsection (c)—

13 (A) in paragraph (1)—

14 (i) by striking “as may be” and all
15 that follows through “by an employee” and
16 inserting “as may be prescribed by the
17 Board, by an employee”;

18 (ii) by striking “; or” and all that fol-
19 lows through “the Board shall investigate”
20 and inserting “, the Board shall inves-
21 tigate”; and

22 (iii) by adding at the end the fol-
23 lowing: “No employer shall have standing
24 as a party, or to intervene, in any rep-

1 resentation proceeding under this sec-
2 tion.”;

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

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

8 (D) by inserting after paragraph (3) the
9 following:

10 “(4) If the Board finds that, in an election
11 under paragraph (1), a majority of the valid votes
12 cast in a unit appropriate for purposes of collective
13 bargaining have been cast in favor of representation
14 by the labor organization, the Board shall certify the
15 labor organization as the representative of the em-
16 ployees in such unit and shall issue an order requir-
17 ing the employer to collectively bargain with the
18 labor organization in accordance with section 8(d).
19 This order shall be deemed an order under section
20 10(c) of the Act, without need for a determination
21 of an unfair labor practice.

22 “(5)(A) If the Board finds that, in an election
23 under paragraph (1), a majority of the valid votes
24 cast in a unit appropriate for purposes of collective
25 bargaining have not been cast in favor of representa-

1 tion by the labor organization, the Board shall dis-
2 miss the petition, subject to subparagraphs (B) and
3 (C).

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

1 organization as their collective bargaining representa-
2 tive.

3 “(C) In any case where the Board determines
4 that an election under this paragraph should be set
5 aside, the Board shall direct a rerun election with
6 appropriate additional safeguards necessary to en-
7 sure a fair election process, except in cases where
8 the Board issues a bargaining order under subpara-
9 graph (B).”; and

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

12 “(8) Except under extraordinary cir-
13 cumstances—

14 “(A) a pre-election hearing under this sub-
15 section shall begin not later than 8 days after
16 a notice of such hearing is served on the par-
17 ties; and

18 “(B) a post-election hearing under this
19 subsection shall begin not later than 14 days
20 after the filing of objections, if any.”; and

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

23 (e) PREVENTION OF UNFAIR LABOR PRACTICES.—

24 (1) IN GENERAL.—Section 10(c) of the Na-
25 tional Labor Relations Act (29 U.S.C. 160(c)) is

1 amended by striking “suffered by him” and insert-
2 ing “suffered by such employee: *Provided further,*
3 That if the Board finds that an employer has dis-
4 criminated against an employee in violation of para-
5 graph (3) or (4) of section 8(a) or has committed a
6 violation of section 8(a) that results in the discharge
7 of an employee or other serious economic harm to an
8 employee, the Board shall award the employee back
9 pay without any reduction (including any reduction
10 based on the employee’s interim earnings or failure
11 to earn interim earnings), front pay (when appro-
12 priate), consequential damages, and an additional
13 amount as liquidated damages equal to 2 times the
14 amount of damages awarded: *Provided further,* no
15 relief under this subsection shall be denied on the
16 basis that the employee is, or was during the time
17 of relevant employment or during the back pay pe-
18 riod, an unauthorized alien as defined in section
19 274A(h)(3) of the Immigration and Nationality Act
20 (8 U.S.C. 1324a(h)(3)) or any other provision of
21 Federal law relating to the unlawful employment of
22 aliens”.

23 (f) ENFORCING COMPLIANCE WITH ORDERS OF THE
24 BOARD.—Section 10 of the National Labor Relations Act
25 (29 U.S.C. 160) is amended—

1 (1) by striking subsection (e);

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

4 (3) by inserting after subsection (c) the fol-
5 lowing:

6 “(d)(1) Each order of the Board shall take effect
7 upon issuance of such order, unless otherwise directed by
8 the Board, and shall remain in effect unless modified by
9 the Board or unless a court of competent jurisdiction
10 issues a superseding order.

11 “(2) Any person who fails or neglects to obey an
12 order of the Board shall forfeit and pay to the Board a
13 civil penalty of not more than \$10,000 for each violation,
14 which shall accrue to the Board and may be recovered in
15 a civil action brought by the Board to the district court
16 of the United States in which the unfair labor practice
17 or other subject of the order occurred, or in which such
18 person or entity resides or transacts business. No action
19 by the Board under this paragraph may be made until
20 30 days following the issuance of an order. Each separate
21 violation of such an order shall be a separate offense, ex-
22 cept that, in the case of a violation in which a person fails
23 to obey or neglects to obey a final order of the Board,
24 each day such failure or neglect continues shall be deemed
25 a separate offense.

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

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

12 “(B) enjoin upon such person or entity, officers,
13 agents, or representatives obedience to the same.”;

14 (4) in subsection (f)—

15 (A) by striking “proceed in the same man-
16 ner as in the case of an application by the
17 Board under subsection (e) of this section,” and
18 inserting “proceed as provided under paragraph
19 (2) of this subsection”;

20 (B) by striking “Any” and inserting the
21 following:

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

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

1 “(2) No objection that has not been urged be-
2 fore the Board, its member, agent, or agency shall
3 be considered by a court, unless the failure or ne-
4 glect to urge such objection shall be excused because
5 of extraordinary circumstances. The findings of the
6 Board with respect to questions of fact if supported
7 by substantial evidence on the record considered as
8 a whole shall be conclusive. If either party shall
9 apply to the court for leave to adduce additional evi-
10 dence and shall show to the satisfaction of the court
11 that such additional evidence is material and that
12 there were reasonable grounds for the failure to ad-
13 duce such evidence in the hearing before the Board,
14 its member, agent, or agency, the court may order
15 such additional evidence to be taken before the
16 Board, its member, agent, or agency, and to be
17 made a part of the record. The Board may modify
18 its findings as to the facts, or make new findings,
19 by reason of additional evidence so taken and filed,
20 and it shall file such modified or new findings, which
21 findings with respect to questions of fact if sup-
22 ported by substantial evidence on the record consid-
23 ered as a whole shall be conclusive, and shall file its
24 recommendations, if any, for the modification or set-
25 ting aside of its original order. Upon the filing of the

1 record with it the jurisdiction of the court shall be
2 exclusive and its judgment and decree shall be final,
3 except that the same shall be subject to review by
4 the appropriate United States court of appeals if ap-
5 plication was made to the district court, and by the
6 Supreme Court of the United States upon writ of
7 certiorari or certification as provided in section 1254
8 of title 28, United States Code.”; and

9 (5) in section 10(g), by striking “subsection (e)
10 or (f) of this section” and inserting “subsection (d)
11 or (f)”.

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

16 (1) by striking “(j) The Board” and inserting
17 “(j)(1) The Board”; and

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

19 “(2) Notwithstanding subsection (m) of section
20 10, whenever it is charged that an employer has en-
21 gaged in an unfair labor practice within the meaning
22 of paragraph (1) or (3) of section 8(a) that signifi-
23 cantly interferes with, restrains, or coerces employ-
24 ees in the exercise of the rights guaranteed under
25 section 7, or involves discharge or other serious eco-

1 nomic harm to an employee, the preliminary inves-
2 tigation of such charge shall be made forthwith and
3 given priority over all other cases except cases of like
4 character in the office where it is filed or to which
5 it is referred. If, after such investigation, the officer
6 or regional attorney to whom the matter may be re-
7 ferred has reasonable cause to believe such charge is
8 true and that a complaint should issue, such officer
9 or attorney shall bring a petition for appropriate
10 temporary relief or restraining order as set forth in
11 paragraph (1). The district court shall grant the re-
12 lief requested unless the court concludes that there
13 is no reasonable likelihood that the Board will suc-
14 ceed on the merits of the Board's claim.”; and

15 (h) REPEALS.—Section 10 of the National Labor Re-
16 lations Act (29 U.S.C. 160) is further amended by repeal-
17 ing subsections (k) and (l).

18 (i) PENALTIES.—Section 12 of the National Labor
19 Relations Act (29 U.S.C. 162) is amended—

20 (1) by striking “SEC. 12. Any person” and in-
21 sserting the following:

22 **“SEC. 12. PENALTIES.**

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

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

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

6 “(1) state the findings of fact supporting such
7 determination;

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

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

16 “(c) VIOLATIONS CAUSING SERIOUS ECONOMIC
17 HARM TO EMPLOYEES.—

18 “(1) IN GENERAL.—Any employer who commits
19 an unfair labor practice within the meaning of para-
20 graph (3) or (4) of section 8(a), or a violation of
21 section 8(a) that results in the discharge of an em-
22 ployee or other serious economic harm to an em-
23 ployee shall, in addition to any remedy ordered by
24 the Board, be subject to a civil penalty in an amount
25 not to exceed \$50,000 for each violation, except that

1 the Board shall double the amount of such penalty,
2 to an amount not to exceed \$100,000, in any case
3 where the employer has within the preceding 5 years
4 committed another such violation.

5 “(2) CONSIDERATIONS.—In determining the
6 amount of any civil penalty under this subsection,
7 the Board shall consider—

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

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

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

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

1 “(d) JOINT EMPLOYMENT.—Two or more persons
2 shall be employers for purposes of this Act with respect
3 to employees if each such person possesses sufficient con-
4 trol over the employees’ essential terms and conditions of
5 employment to permit meaningful collective bargaining. In
6 applying this inquiry, the Board or a court of competent
7 jurisdiction shall consider as relevant direct control, indi-
8 rect control, reserved authority to control, and control ex-
9 ercised in fact: *Provided*, That nothing in this paragraph
10 shall be construed to bring within the definition of em-
11 ployer under section 2(2) the United States or any wholly
12 owned Government corporation, or any Federal Reserve
13 Bank, or any State or political subdivision thereof, or any
14 person subject to the Railway Labor Act, as amended from
15 time to time, or any labor organization (other than when
16 acting as an employer), or anyone acting in the capacity
17 of officer or agent of such labor organization.

18 “(e) RIGHT TO CIVIL ACTION.—

19 “(1) IN GENERAL.—Any person who is injured
20 by reason of a violation of paragraph (1) or (3) of
21 section 8(a) may, in addition to or in lieu of filing
22 a charge alleging such unfair labor practice with the
23 Board in accordance with this Act, bring a civil ac-
24 tion in the appropriate district court of the United
25 States against the employer within 180 days of the

1 violation. No relief under this subsection shall be de-
2 nied on the basis that the employee is, or was during
3 the time of relevant employment or during the back
4 pay period, an unauthorized alien as defined in sec-
5 tion 274(h)(3) of the Immigration and Nationality
6 Act (8 U.S.C. 1324a(h)(3)) or any other provision of
7 Federal law relating to the unlawful employment of
8 aliens.

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

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

15 “(B) front pay (where appropriate);

16 “(C) consequential damages;

17 “(D) an additional amount as liquidated
18 damages equal to 2 times the cumulative
19 amount of damages awarded under subpara-
20 graphs (A) through (C);

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

23 “(F) any other relief authorized by section
24 706(g) of the Civil Rights Act of 1964 (42

1 U.S.C. 2000e-5(g)) or by section 1977A(b) of
2 the Revised Statutes (42 U.S.C. 1981a(b)).

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

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

11 “(A) the gravity of the unfair labor prac-
12 tice;

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

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

18 (3) CONFORMING AMENDMENTS.—Section
19 10(b) of the National Labor Relations Act (29
20 U.S.C. 160(b)) is amended—

21 (A) by striking “six months” and inserting
22 “180 days”; and

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

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

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

16 **SEC. 102. AMENDMENTS TO THE LABOR MANAGEMENT RE-**
17 **LATIONS ACT, 1947.**

18 Section 303 of the Labor Management Relations Act,
19 1947 (29 U.S.C. 187) is repealed.

20 **SEC. 103. AMENDMENTS TO THE LABOR-MANAGEMENT RE-**
21 **PORTING AND DISCLOSURE ACT OF 1959.**

22 Section 203(c) of the Labor-Management Reporting
23 and Disclosure Act of 1959 (29 U.S.C. 433(c)) is amended
24 by striking the period at the end and inserting the fol-
25 lowing “: *Provided*, That this subsection shall not exempt

1 from the requirements of this section any arrangement or
2 part of an arrangement in which a party agrees, for an
3 object described in section (b)(1), to plan or conduct em-
4 ployee meetings; train supervisors or employer representa-
5 tives to conduct meetings; coordinate or direct activities
6 of supervisors or employer representatives; establish or fa-
7 cilitate employee committees; identify employees for dis-
8 ciplinary action, reward, or other targeting; or draft or
9 revise employer personnel policies, speeches, presentations,
10 or other written, recorded, or electronic communications
11 to be delivered or disseminated to employees.”.

12 **TITLE II—FAIR PAY AND SAFE** 13 **WORKPLACES**

14 **SEC. 201. DEFINITIONS.**

15 In this title:

16 (1) **COVERED CONTRACT.**—The term “covered
17 contract” means a Federal contract for the procure-
18 ment of property or services, including construction,
19 valued in excess of \$500,000.

20 (2) **COVERED SUBCONTRACT.**—The term “cov-
21 ered subcontract”—

22 (A) means a subcontract for property or
23 services under a Federal contract that is valued
24 in excess of \$500,000; and

1 (B) does not include a subcontract for the
2 procurement of commercially available off-the-
3 shelf items.

4 (3) EXECUTIVE AGENCY.—The term “executive
5 agency” has the meaning given the term in section
6 133 of title 41, United States Code.

7 **SEC. 202. PURPOSE.**

8 The purpose of this title is to—

9 (1) ensure that the purchasing power of the
10 Federal Government is employed to raise labor
11 standards, improve working conditions, and
12 strengthen workers’ bargaining power; and

13 (2) increase efficiency and cost savings in the
14 work performed by parties who contract with the
15 Federal Government by ensuring that they under-
16 stand and comply with labor laws, which are de-
17 signed to promote safe, healthy, fair, and effective
18 workplaces and increase the likelihood of enhanced
19 productivity in the workplace and the timely, pre-
20 dictable, and satisfactory delivery of goods and serv-
21 ices to the Federal Government.

22 **SEC. 203. REQUIRED PRE-CONTRACT AWARD ACTIONS.**

23 (a) DISCLOSURES.—The head of an executive agency
24 shall ensure that the solicitation for a covered contract re-
25 quires the offeror—

1 (1) to represent, to the best of the offeror’s
2 knowledge and belief, whether there has been any
3 administrative merits determination, arbitral award
4 or decision, or civil judgment, as defined in guidance
5 issued by the Secretary of Labor, rendered against
6 the offeror in the preceding 3 years for violations
7 of—

8 (A) the Fair Labor Standards Act of 1938
9 (29 U.S.C. 201 et seq.);

10 (B) the Occupational Safety and Health
11 Act of 1970 (29 U.S.C. 651 et seq.);

12 (C) the Migrant and Seasonal Agricultural
13 Worker Protection Act (29 U.S.C. 1801 et
14 seq.);

15 (D) the National Labor Relations Act (29
16 U.S.C. 151 et seq.);

17 (E) subchapter IV of chapter 31 of title
18 40, United States Code (commonly known as
19 the “Davis-Bacon Act”);

20 (F) chapter 67 of title 41, United States
21 Code (commonly known as the “Service Con-
22 tract Act”);

23 (G) Executive Order 11246 (42 U.S.C.
24 2000e note; relating to equal employment op-
25 portunity);

1 (H) section 503 of the Rehabilitation Act
2 of 1973 (29 U.S.C. 793);

3 (I) section 4212 of title 38, United States
4 Code;

5 (J) the Family and Medical Leave Act of
6 1993 (29 U.S.C. 2601 et seq.);

7 (K) title VII of the Civil Rights Act of
8 1964 (42 U.S.C. 2000e et seq.);

9 (L) the Americans with Disabilities Act of
10 1990 (42 U.S.C. 12101 et seq.);

11 (M) the Age Discrimination in Employ-
12 ment Act of 1967 (29 U.S.C. 621 et seq.);

13 (N) Executive Order 13658 (79 Fed. Reg.
14 9851; relating to establishing a minimum wage
15 for contractors); or

16 (O) equivalent State laws, as defined in
17 guidance issued by the Secretary of Labor;

18 (2) to require each subcontractor for a covered
19 subcontract—

20 (A) to represent to the offeror and the en-
21 tity designated by the final rule reissued under
22 subsection (a) of section 206, to the best of the
23 subcontractor's knowledge and belief, whether
24 there has been any administrative merits deter-
25 mination, arbitral award or decision, or civil

1 judgment, as defined in guidance issued by the
2 Department of Labor, rendered against the
3 subcontractor in the preceding 3 years for viola-
4 tions of any of the labor laws and executive or-
5 ders listed under paragraph (1); and

6 (B) to update such information every 6
7 months for the duration of the subcontract; and

8 (3) to consider the advice rendered by the enti-
9 ty designated by the final rule reissued under sub-
10 section (a) of section 206 or information submitted
11 by a subcontractor pursuant to paragraph (2) in de-
12 termining whether the subcontractor is a responsible
13 source with a satisfactory record of integrity and
14 business ethics—

15 (A) prior to awarding the subcontract; or

16 (B) in the case of a subcontract that is
17 awarded or will become effective within 5 days
18 of the prime contract being awarded, not later
19 than 30 days after awarding the subcontract.

20 (b) PRE-AWARD CORRECTIVE MEASURES.—

21 (1) IN GENERAL.—A contracting officer, prior
22 to awarding a covered contract, shall, as part of the
23 responsibility determination, provide an offeror who
24 makes a disclosure pursuant to subsection (a) an op-
25 portunity to report any steps taken to correct the

1 violations of or improve compliance with the labor
2 laws listed in paragraph (1) of such subsection, in-
3 cluding any agreements entered into with an en-
4 forcement agency.

5 (2) CONSULTATION.—The executive agency’s
6 Labor Compliance Advisor designated pursuant to
7 section 205, in consultation with relevant enforce-
8 ment agencies, shall advise the contracting officer
9 whether agreements are in place or are otherwise
10 needed to address appropriate remedial measures,
11 compliance assistance, steps to resolve issues to
12 avoid further violations, or other related matters
13 concerning the offeror.

14 (3) RESPONSIBILITY DETERMINATION.—The
15 contracting officer, in consultation with the executive
16 agency’s Labor Compliance Advisor, shall consider
17 information provided by the offeror under this sub-
18 section in determining whether the offeror is a re-
19 sponsible source with a satisfactory record of integ-
20 rity and business ethics. The determination shall be
21 based on the guidelines reissued under subsection
22 (b)(1) of section 206 and the final rule reissued
23 under subsection (a) of such section.

24 (c) REFERRAL OF INFORMATION TO SUSPENSION
25 AND DEBARMENT OFFICIALS.—As appropriate, con-

1 tracting officers, in consultation with their executive agen-
2 cy's Labor Compliance Advisor, shall refer matters related
3 to information provided pursuant to paragraphs (1) and
4 (2) of subsection (a) to the executive agency's suspension
5 and debarment official in accordance with agency proce-
6 dures.

7 **SEC. 204. POST-AWARD CONTRACT ACTIONS.**

8 (a) INFORMATION UPDATES.—The contracting offi-
9 cer for a covered contract shall require that the contractor
10 update the information provided under paragraphs (1)
11 and (2) of section 203(a) every 6 months.

12 (b) CORRECTIVE ACTIONS.—

13 (1) PRIME CONTRACT.—The contracting officer,
14 in consultation with the Labor Compliance Advisor
15 designated pursuant to section 205, shall determine
16 whether any information provided under subsection
17 (a) warrants corrective action. Such action may in-
18 clude—

19 (A) an agreement requiring appropriate re-
20 medial measures;

21 (B) compliance assistance;

22 (C) resolving issues to avoid further viola-
23 tions;

24 (D) the decision not to exercise an option
25 on a contract or to terminate the contract; or

1 (E) referral to the agency suspending and
2 debarring official.

3 (2) SUBCONTRACTS.—The prime contractor for
4 a covered contract, in consultation with the Labor
5 Compliance Advisor, shall determine whether any in-
6 formation provided under section 203(a)(2) warrants
7 corrective action, including remedial measures, com-
8 pliance assistance, and resolving issues to avoid fur-
9 ther violations.

10 (3) DEPARTMENT OF LABOR.—The Department
11 of Labor shall, as appropriate, inform executive
12 agencies of its investigations of contractors and sub-
13 contractors on current Federal contracts for pur-
14 poses of determining the appropriateness of actions
15 described under paragraphs (1) and (2).

16 **SEC. 205. LABOR COMPLIANCE ADVISORS.**

17 (a) IN GENERAL.—Each executive agency shall des-
18 ignate a senior official to act as the agency’s Labor Com-
19 pliance Advisor.

20 (b) DUTIES.—The Labor Compliance Advisor shall—

21 (1) meet quarterly with the Deputy Secretary,
22 Deputy Administrator, or equivalent executive agen-
23 cy official with regard to matters covered under this
24 title;

1 (2) work with the acquisition workforce, agency
2 officials, and agency contractors to promote greater
3 awareness and understanding of labor law require-
4 ments, including record keeping, reporting, and no-
5 tice requirements, as well as best practices for ob-
6 taining compliance with these requirements;

7 (3) coordinate assistance for executive agency
8 contractors seeking help in addressing and pre-
9 venting labor violations;

10 (4) in consultation with the Department of
11 Labor or other relevant enforcement agencies, and
12 pursuant to section 203(b) as necessary, provide as-
13 sistance to contracting officers regarding appro-
14 priate actions to be taken in response to violations
15 identified prior to or after contracts are awarded,
16 and address complaints in a timely manner, by—

17 (A) providing assistance to contracting of-
18 ficers and other executive agency officials in re-
19 viewing the information provided pursuant to
20 subsections (a) and (b) of section 203 and sec-
21 tion 204(a), or other information indicating a
22 violation of a labor law in order to assess the
23 serious, repeated, willful, or pervasive nature of
24 any violation and evaluate steps contractors

1 have taken to correct violations or improve com-
2 pliance with relevant requirements;

3 (B) helping agency officials determine the
4 appropriate response to address violations of
5 the requirements of the labor laws listed in sec-
6 tion 203(a)(1) or other information indicating
7 such a labor violation (particularly serious, re-
8 peated, willful, or pervasive violations), includ-
9 ing agreements requiring appropriate remedial
10 measures, decisions not to award a contract or
11 exercise an option on a contract, contract termi-
12 nation, or referral to the executive agency sus-
13 pension and debarment official;

14 (C) providing assistance to appropriate ex-
15 ecutive agency officials in receiving and re-
16 sponding to, or making referrals of, complaints
17 alleging violations by agency contractors and
18 subcontractors of the requirements of the labor
19 laws listed in section 203(a)(1); and

20 (D) supporting contracting officers, sus-
21 pension and debarment officials, and other
22 agency officials in the coordination of actions
23 taken pursuant to this subsection to ensure
24 agency-wide consistency, to the extent prac-
25 ticable;

1 (5) as appropriate, send information to agency
2 suspension and debarment officials in accordance
3 with agency procedures;

4 (6) consult with the agency's Chief Acquisition
5 Officer and Senior Procurement Executive, and the
6 Department of Labor as necessary, in the develop-
7 ment of regulations, policies, and guidance address-
8 ing labor law compliance by contractors and sub-
9 contractors;

10 (7) make recommendations to the agency to
11 strengthen agency management of contractor compli-
12 ance with labor laws;

13 (8) publicly report, on an annual basis, a sum-
14 mary of agency actions taken to promote greater
15 labor compliance, including the agency's response
16 pursuant to this order to serious, repeated, willful,
17 or pervasive violations of the requirements of the
18 labor laws listed in section 203(a)(1); and

19 (9) participate in the interagency meetings reg-
20 ularly convened by the Secretary of Labor pursuant
21 to section 206(b)(2)(C).

22 **SEC. 206. MEASURES TO ENSURE GOVERNMENT-WIDE CON-**
23 **SISTENCY.**

24 (a) FEDERAL ACQUISITION REGULATION.—

1 (1) IN GENERAL.—Notwithstanding Public Law
2 115–11 (131 Stat. 75) and section 553 of title 5,
3 United States Code, not later than 1 year after the
4 date of enactment of this Act, the Secretary of De-
5 fense, the Administrator of the General Services Ad-
6 ministration, and the Administrator of the National
7 Aeronautics and Space Administration shall reissue
8 the final rule entitled “Federal Acquisition Regula-
9 tion; Fair Pay and Safe Workplaces” (81 Fed. Reg.
10 58,562 (Aug. 25, 2016)), subject to paragraph (2).

11 (2) UPDATED DATES.—The agencies described
12 in paragraph (1) may, in reissuing the final rule
13 under such paragraph, update any date provided in
14 such final rule as reasonable.

15 (b) DEPARTMENT OF LABOR.—

16 (1) GUIDANCE.—Not later than 1 year after
17 the date of enactment of this Act, the Secretary of
18 Labor shall reissue the guidance entitled “Guidance
19 for Executive Order 13673, ‘Fair Pay and Safe
20 Workplaces’” (81 Fed. Reg. 58,564 (Aug. 25,
21 2016)). In reissuing such guidance, the Secretary of
22 Labor may update any date provided in such guid-
23 ance as reasonable and necessary.

24 (2) ADDITIONAL ACTIVITIES.—The Secretary of
25 Labor shall—

1 (A) develop a process—

2 (i) for the Labor Compliance Advisors
3 designated pursuant to section 205 to con-
4 sult with the Secretary of Labor in car-
5 rying out their responsibilities under sec-
6 tion 205(b)(4);

7 (ii) by which contracting officers and
8 Labor Compliance Advisors may give ap-
9 propriate consideration to determinations
10 and agreements made by the Secretary of
11 Labor and the heads of other executive
12 agencies; and

13 (iii) by which contractors may enter
14 into agreements with the Secretary of
15 Labor, or the head of another executive
16 agency, prior to being considered for a con-
17 tract;

18 (B) review data collection requirements
19 and processes, and work with the Director of
20 the Office of Management and Budget, the Ad-
21 ministrator for General Services, and other
22 agency heads to improve such requirements and
23 processes, as necessary, to reduce the burden on
24 contractors and increase the amount of infor-
25 mation available to executive agencies;

1 (C) regularly convene interagency meetings
2 of Labor Compliance Advisors to share and pro-
3 mote best practices for improving labor law
4 compliance; and

5 (D) designate an appropriate contact for
6 executive agencies seeking to consult with the
7 Secretary of Labor with respect to the require-
8 ments and activities under this title.

9 (c) OFFICE OF MANAGEMENT AND BUDGET.—The
10 Director of the Office of Management and Budget shall—

11 (1) work with the Administrator of General
12 Services to include in the Federal Awardee Perform-
13 ance and Integrity Information System the informa-
14 tion provided by contractors pursuant to sections
15 203(a)(1) and 204(a) and data on the resolution of
16 any issues related to such information; and

17 (2) designate an appropriate contact for agen-
18 cies seeking to consult with the Office of Manage-
19 ment and Budget on matters arising under this title.

20 (d) GENERAL SERVICES ADMINISTRATION.—

21 (1) IN GENERAL.—The Administrator of Gen-
22 eral Services, in consultation with other relevant ex-
23 ecutive agencies, shall establish a single Internet
24 website for Federal contractors to use for all Federal
25 contract reporting requirements under this title, as

1 well as any other Federal contract reporting require-
2 ments to the extent practicable.

3 (2) AGENCY COOPERATION.—The heads of ex-
4 ecutive agencies with covered contracts shall provide
5 the Administrator of General Services with the data
6 necessary to maintain the Internet website estab-
7 lished under paragraph (1).

8 (e) MINIMIZING COMPLIANCE BURDEN.—After re-
9 issuing the guidance under subsection (b)(1) or the final
10 rule under subsection (a), the Secretary of Labor or the
11 Secretary of Defense, the Administrator of the General
12 Services Administration, and the Administrator of the Na-
13 tional Aeronautics and Space Administration may, respec-
14 tively, amend such guidance or final rule consistent with
15 the requirements under chapter 5 of title 5, United States
16 Code.

17 **SEC. 207. PAYCHECK TRANSPARENCY.**

18 (a) IN GENERAL.—Each executive agency entering
19 into a covered contract, or covered subcontract, shall en-
20 sure that provisions in solicitations for such contracts, or
21 subcontracts, and clauses in such contracts, or sub-
22 contracts, shall provide that, for each pay period, contrac-
23 tors or subcontractors provide each individual described
24 in subsection (b) with a document containing information
25 with respect to such individual for the pay period con-

1 cerning hours worked, overtime hours worked, pay, and
2 any additions made to or deductions made from pay.

3 (b) INDIVIDUALS DESCRIBED.—An individual de-
4 scribed in this subsection is any individual performing
5 work under a contract or subcontract for which the con-
6 tractor or subcontractor is required to maintain wage
7 records under—

8 (1) the Fair Labor Standards Act of 1938 (29
9 U.S.C. 201 et seq.);

10 (2) subchapter IV of chapter 31 of title 40,
11 United States Code (commonly referred to as the
12 “Davis-Bacon Act”);

13 (3) chapter 67 of title 41, United States Code
14 (commonly known as the “Service Contract Act”); or

15 (4) an applicable State law.

16 (c) EXCEPTIONS.—

17 (1) EMPLOYEES EXEMPT FROM OVERTIME RE-
18 QUIREMENTS.—The document provided under sub-
19 section (a) to individuals who are exempt under sec-
20 tion 13 of the Fair Labor Standards Act of 1938
21 (29 U.S.C. 213) from the overtime compensation re-
22 quirements under section 7 of such Act (29 U.S.C.
23 207) shall not be required to include a record of the
24 hours worked if the contractor or subcontractor in-

1 forms the individual of the status of such individual
2 as exempt from such requirements.

3 (2) SUBSTANTIALLY SIMILAR STATE LAWS.—

4 The requirements under this section shall be deemed
5 to be satisfied if the contractor or subcontractor
6 complies with State or local requirements that the
7 Secretary of Labor has determined are substantially
8 similar to the requirements under this section.

9 (d) INDEPENDENT CONTRACTORS.—If the contractor
10 or subcontractor is treating an individual performing work
11 under a covered contract or subcontract as an independent
12 contractor, and not as an employee, the contractor or sub-
13 contractor shall provide the individual a document inform-
14 ing the individual of their status as an independent con-
15 tractor.

16 **SEC. 208. COMPLAINT AND DISPUTE TRANSPARENCY.**

17 (a) IN GENERAL.—

18 (1) CONTRACTS.—The head of an executive
19 agency may not enter into a contract for the pro-
20 curement of property or services valued in excess of
21 \$500,000 unless the contractor agrees that any deci-
22 sion to arbitrate the claim of an employee or inde-
23 pendent contractor performing work under the con-
24 tract that arises under title VII of the Civil Rights
25 Act of 1964 (42 U.S.C. 2000e et seq.) or any tort

1 related to or arising out of sexual assault or sexual
2 harassment may only be made with the voluntary
3 consent of the employee or independent contractor
4 after the dispute arises.

5 (2) SUBCONTRACTS.—The head of an executive
6 agency shall require that a contractor covered under
7 paragraph (1) incorporate the requirement under
8 such subsection into each subcontract for the pro-
9 curement of property or services valued in excess of
10 \$500,000 at any tier under the contract.

11 (b) EXCEPTIONS.—

12 (1) CONTRACTS FOR COMMERCIAL ITEMS AND
13 COMMERCIALY AVAILABLE OFF-THE-SHELF
14 ITEMS.—The requirements under subsection (a) do
15 not apply to contracts or subcontracts for the acqui-
16 sition of commercial items or commercially available
17 off-the-shelf items (as those terms are defined in
18 sections 103(1) and 104, respectively, of title 41,
19 United States Code).

20 (2) EMPLOYEES AND INDEPENDENT CONTRAC-
21 TORS NOT COVERED.—The requirements under sub-
22 section (a) do not apply with respect to an employee
23 or independent contractor who—

24 (A) is covered by a collective bargaining
25 agreement negotiated between the contractor or

1 subcontractor and a labor organization rep-
2 resenting the employee or independent con-
3 tractor; or

4 (B) entered into a valid agreement to arbi-
5 trate claims covered under such subsection be-
6 fore the contractor or subcontractor bid on the
7 contract covered under such subsection, except
8 that such requirements do apply—

9 (i) if the contractor or subcontractor
10 is permitted to change the terms of the ar-
11 bitration agreement with the employee or
12 independent contractor; or

13 (ii) in the event the arbitration agree-
14 ment is renegotiated or replaced after the
15 contractor or subcontractor bids on the
16 contract.

17 **SEC. 209. NEUTRALITY.**

18 (a) Costs incurred in maintaining satisfactory rela-
19 tions between the contractor and its employees on a cov-
20 ered contract or a subcontractor and its employees on a
21 covered contract (other than those made unallowable in
22 subsection (b) of this section), including costs of shop
23 stewards, labor management committees, employee publi-
24 cations, and other related activities, are allowable.

1 (b) No Federal funds made available through a cov-
2 ered contract or covered subcontract may be used to en-
3 gage in activities undertaken to persuade employees, of
4 any entity, to exercise or not to exercise, or concerning
5 the manner of exercising, the right to organize and bar-
6 gain collectively through representatives of the employees'
7 own choosing or any other activities that are subject to
8 the requirements under section 203(b) of the Labor-Man-
9 agement Reporting and Disclosure Act of 1959 (29 U.S.C.
10 433(b)). Examples of unallowable costs under this sub-
11 section include, but are not limited to, the costs of—

12 (1) preparing and distributing materials;

13 (2) hiring or consulting legal counsel or consult-
14 ants;

15 (3) meetings (including paying the salaries of
16 the attendees at meetings held for this purpose); and

17 (4) planning or conducting activities by man-
18 agers, supervisors, or union representatives during
19 work hours.

20 **SEC. 210. IMPLEMENTING REGULATIONS.**

21 Not later than 9 months after the date of enactment
22 of this Act, the Federal Acquisition Regulatory Council
23 shall amend the Federal Acquisition Regulation to carry
24 out the provisions of this title, including sections 207 and
25 208.

1 **SEC. 211. SEVERABILITY.**

2 If any provision of this title or the application of any
3 such provision to any person or circumstance is held to
4 be unconstitutional, the remaining provisions of this title
5 and the application of such provisions to any person or
6 circumstance shall not be affected by such holding.

7 **SEC. 212. RULES OF CONSTRUCTION.**

8 Nothing in this title shall be construed as—

9 (1) impairing or otherwise affecting the author-
10 ity granted by law to an executive agency or the
11 head thereof; or

12 (2) impairing or otherwise affecting the func-
13 tions of the Director of the Office of Management
14 and Budget relating to budgetary, administrative, or
15 legislative proposals.

16 **TITLE III—AUTHORIZATION OF**
17 **APPROPRIATIONS**

18 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

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

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