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.
December 16, 2019

Additional sponsors: Mr. Huffman, Ms. Finkenauer, Mrs. Luria, Ms. Hill of California, Ms. Moore, Ms. Scanlon, Mr. Sean Patrick Maloney of New York, Mr. Panetta, Mrs. Bustos, Ms. Ocasio-Cortez, Mr. Pascrell, Mr. Tonko, Mr. Carrajal, Mr. Meeks, Mr. Cárdenas, Mr. Vela, Mrs. Demings, Mr. Gomez, Ms. Meng, Mr. Johnson of Georgia, Mr. Jeffries, Mr. Gallego, Ms. Schrier, Ms. Bass, Ms. Jackson Lee, Mr. Foster, Ms. Slotkin, Mr. Heck, Ms. Spanberger, Mr. Aguilar, Mr. Kind, Mr. Blumenauer, Mr. Van Drew, Ms. Brownley of California, Mr. Vargas, Mr. Kim, Mr. Lamb, Mr. Brown of Maryland, Ms. Underwood, Mr. Larson of Connecticut, Mr. Gonzalez of Texas, Mr. Larsen of Washington, Mr. Neal, Mr. Crow, Ms. Clarke of New York, Mr. Deutch, Mr. Ted Lieu of California, Ms. Escobar, Mr. Sarbanes, Mrs. Lowey, Mr. Welch, Mr. Ruppersberger, Ms. Kelly of Illinois, Mr. Evans, Mrs. Beatty, Ms. DeGette, Mrs. Axne, Mr. David Scott of Georgia, Mrs. Dingell, Mr. Pappas, Mr. Peterson, Mrs. Kirkpatrick, Ms. Castor of Florida, Mr. Schiff, Mr. Levin of California, Mr. Loeb, Mrs. Torres of California, Ms. Porter, Mr. Thompson of California, Mr. Stanton, Mr. Crist, Mr. Payne, Mr. Schneider, Ms. Speier, Mr. Keating, Mr. Moulton, Ms. Garcia of Texas, Mr. McEachin, Mr. Hastings, Mr. Quigley, Mr. Danny K. Davis of Illinois, Ms. DelBene, Ms. Matsui, Ms. Waters, Mr. Connolly, Mr. Lipinski, Mr. Kilmer, Mr. Hooyer, Ms. Wexton, Ms. Barragan, Ms. Johnson of Texas, Mr. Perlmutter, Mr. Brindisi, Mr. Doggett, Mr. Casten of Illinois, Ms. Gabbard, Ms. Houlahan, Ms. Frankel, Mr. Krishnamoorthi, Mr. Price of North Carolina, Ms. Sherrill, Mr. Cox of California, Mr. O’Halleran, Mr. Richmond, Mr. Bishop of Georgia, Ms. Lofgren, Ms. Kuster of New Hampshire, Mr. Swalwell of California, Mr. Himes, Mr. Gottheimer, Ms. Blunt Rochester, Ms. Davids of Kansas, Mr. McNerney, Mr. Butterfield, Mr. Cooper, Mr. Fitzpatrick, Mr. Smith of New Jersey, Mr. Lawson of Florida, and Ms. Sewell of Alabama
DECEMBER 16, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 2, 2019]
A BILL

To amend the National Labor Relations Act, the Labor Management Relations Act, 1947, and the Labor-Management Reporting and Disclosure Act of 1959, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

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

(a) DEFINITIONS.—

(1) JOINT EMPLOYER.—Section 2(2) of the Na-
tional Labor Relations Act (29 U.S.C. 152(2)) is
amended by adding at the end the following: “Two or
more persons shall be employers with respect to an
employee if each such person codetermines or shares
control over the employee’s essential terms and condi-
tions of employment. In determining whether such
control exists, the Board or a court of competent ju-
risdiction shall consider as relevant direct control and
indirect control over such terms and conditions, re-
served authority to control such terms and conditions,
and control over such terms and conditions exercised
by a person in fact: Provided, That nothing herein
precludes a finding that indirect or reserved control
standing alone can be sufficient given specific facts
and circumstances.”.
(2) EMPLOYEE.—Section 2(3) of the National Labor Relations Act (29 U.S.C. 152(3)) is amended by adding at the end the following: “An individual performing any service shall be considered an employee (except as provided in the previous sentence) and not an independent contractor, unless—

“(A) the individual is free from control and direction in connection with the performance of the service, both under the contract for the performance of service and in fact;

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

“(C) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed.”.

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

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

(B) by striking “assign,”; and

(C) by striking “or responsibly to direct them,”.
(b) REPORTS.—Section 3(c) of the National Labor Relations Act is amended—

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

(2) by adding at the end the following:


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

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

(d) UNFAIR LABOR PRACTICES.—Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking the period and inserting “;”; and

(B) by adding at the end the following:

“(6) to promise, threaten, or take any action—
“(A) to permanently replace an employee who participates in a strike as defined by section 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;

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

(4) in subsection (d)—

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

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

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

(D) by inserting “: Provided, That an employer’s duty to collectively bargain shall con-
tion following an election conducted pursuant to
section 9” after “making of a concession;”;

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

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

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

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

(I) by striking “section 8(d)(3)” and insert-
ing “paragraph (1)(C)” in each place it appears;

(J) by striking “section 8(d)(4)” and insert-
ing “paragraph (1)(D)”;

(K) by adding at the end the following:

“(3) Whenever collective bargaining is for the purpose
of establishing an initial collective bargaining agreement
following certification or recognition of a labor organiza-
tion, the following shall apply:

“(A) Not later than 10 days after receiving a
written request for collective bargaining from an indi-
vidual or labor organization that has been newly rec-
ognized or certified as a representative as defined in
section 9(a), or within such further period as the par-
ties agree upon, the parties shall meet and commence to bargain collectively and shall make every reason-
able effort to conclude and sign a collective bar-
gaining agreement.

“(B) If after the expiration of the 90-day period beginning on the date on which bargaining is com-
menced, or such additional period as the parties may agree upon, the parties have failed to reach an agree-
ment, either party may notify the Federal Mediation and Conciliation Service of the existence of a dispute and request mediation. Whenever such a request is re-
ceived, it shall be the duty of the Service promptly to put itself in communication with the parties and to use its best efforts, by mediation and conciliation, to bring them to agreement.

“(C) If after the expiration of the 30-day period beginning on the date on which the request for medi-
ation is made under subparagraph (B), or such addi-
tional period as the parties may agree upon, the Service is not able to bring the parties to agreement by conciliation, the Service shall refer the dispute to a tripartite arbitration panel established in accord-
ance with such regulations as may be prescribed by the Service, with one member selected by the labor or-
ganization, one member selected by the employer, and
one neutral member mutually agreed to by the parties. The labor organization and employer must each select the members of the tripartite arbitration panel within 14 days of the Service’s referral; if the labor organization or employer fail to do so, the Service shall designate any members not selected by the labor organization or the employer. A majority of the tripartite arbitration panel shall render a decision settling the dispute and such decision shall be binding upon the parties for a period of two years, unless amended during such period by written consent of the parties. Such decision shall be based on—

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

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

“(iii) the employees’ cost of living;

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

“(v) the wages and benefits other employers in the same business provide their employees.”;

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

“(1) to enter into or attempt to enforce any agreement, express or implied, whereby prior to a dispute to which the agreement applies, an employee undertakes or promises not to pursue, bring, join, litigate, or support any kind of joint, class, or collective claim arising from or relating to the employment of such employee in any forum that, but for such agreement, is of competent jurisdiction;

“(2) to coerce an employee into undertaking or promising not to pursue, bring, join, litigate, or support any kind of joint, class, or collective claim arising from or relating to the employment of such employee; or

“(3) to retaliate or threaten to retaliate against an employee for refusing to undertake or promise not to pursue, bring, join, litigate, or support any kind of joint, class, or collective claim arising from or relating to the employment of such employee: Provided, That any agreement that violates this subsection or results from a violation of this subsection shall be to such extent unenforceable and void: Provided further,
That this subsection shall not apply to any agreement embodied in or expressly permitted by a contract between an employer and a labor organization.”;

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

(7) by adding at the end the following:

“(h)(1) The Board shall promulgate regulations requiring each employer to post and maintain, in conspicuous places where notices to employees and applicants for employment are customarily posted both physically and electronically, a notice setting forth the rights and protections afforded employees under this Act. The Board shall make available to the public the form and text of such notice. The Board shall promulgate regulations requiring employers to notify each new employee of the information contained in the notice described in the preceding two sentences.

“(2) Whenever the Board directs an election under section 9(c) or approves an election agreement, the employer of employees in the bargaining unit shall, not later than two business days after the Board directs such election or approves such election agreement, provide a voter list to a labor organization that has petitioned to represent such employees. Such voter list shall include the names of all em-
employees in the bargaining unit and such employees’ home addresses, work locations, shifts, job classifications, and, if available to the employer, personal landline and mobile telephone numbers, and work and personal email addresses; the voter list must be provided in a searchable electronic format generally approved by the Board unless the employer certifies that the employer does not possess the capacity to produce the list in the required form. Not later than nine months after the date of enactment of the Protecting the Right to Organize Act of 2019, the Board shall promulgate regulations implementing the requirements of this paragraph.

“(i) The rights of an employee under section 7 include the right to use electronic communication devices and systems (including computers, laptops, tablets, internet access, email, cellular telephones, or other company equipment) of the employer of such employee to engage in activities protected under section 7 if such employer has given such employee access to such devices and systems in the course of the work of such employee, absent a compelling business rationale.”.

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

(1) in subsection (c)—
(A) by amending paragraph (1) to read as follows:

“(1) Whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board, by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a substantial number of employees (i) wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in section 9(a), or (ii) assert that the individual or labor organization, which has been certified or is being recognized by their employer as the bargaining representative, is no longer a representative as defined in section 9(a), the Board shall investigate such petition and if it has reasonable cause to believe that a question of representation affecting commerce exists shall provide for an appropriate hearing upon due notice. Such hearing may be conducted by an officer or employee of the regional office, who shall not make any recommendations with respect thereto. If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof. The Board shall find the labor organization’s proposed unit to be appropriate if the employees in the proposed unit share a community of interest, and if the employees outside the
unit do not share an overwhelming community of interest with employees inside. At the request of the labor organization, the Board shall direct that the election be conducted through certified mail, electronically, at the work location, or at a location other than one owned or controlled by the employer. No employer shall have standing as a party or to intervene in any representation proceeding under this section.”;

(B) in paragraph (3), by striking “an economic strike who are not entitled to reinstatement” and inserting “a strike”;

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

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

“(4) If the Board finds that, in an election under paragraph (1), a majority of the valid votes cast in a unit appropriate for purposes of collective bargaining have been cast in favor of representation by the labor organization, the Board shall certify the labor organization as the representative of the employees in such unit and shall issue an order requiring the employer of such employees to collectively bargain with the labor organization in accordance with section 8(d). This order shall be deemed an order under
section 10(c) of this Act, without need for a determination of an unfair labor practice.

“(5)(A) If the Board finds that, in an election under paragraph (1), a majority of the valid votes cast in a unit appropriate for purposes of collective bargaining have not been cast in favor of representation by the labor organization, the Board shall dismiss the petition, subject to subparagraphs (B) and (C).

“(B) In any case in which a majority of the valid votes cast in a unit appropriate for purposes of collective bargaining have not been cast in favor of representation by the labor organization and the Board determines that the election should be set aside because the employer has committed a violation of this Act or otherwise interfered with a fair election, and the employer has not demonstrated that the violation or other interference is unlikely to have affected the outcome of the election, the Board shall, without ordering a new election, certify the labor organization as the representative of the employees in such unit and issue an order requiring the employer to bargain with the labor organization in accordance with section 8(d) if, at any time during the period beginning one year preceding the date of the commencement of the election and ending on the date upon which the Board makes the determination of a violation or other interference, a majority of the employees in
the bargaining unit have signed authorizations designating
the labor organization as their collective bargaining rep-
resentative.

“(C) In any case where the Board determines that an
election under this paragraph should be set aside, the Board
shall direct a new election with appropriate additional safe-
guards necessary to ensure a fair election process, except
in cases where the Board issues a bargaining order under
subparagraph (B).”; and

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

“(8) Except under extraordinary circumstances—

“(A) a pre-election hearing under this subsection
shall begin not later than eight days after a notice of
such hearing is served on the labor organization; and

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

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

(f) PREVENTION OF UNFAIR LABOR PRACTICES.—Sec-
tion 10(c) of the National Labor Relations Act (29 U.S.C.
160(c)) is amended by striking “suffered by him” and in-
serting “suffered by such employee: Provided further, That
if the Board finds that an employer has discriminated
against an employee in violation of paragraph (3) or (4) of section 8(a) or has committed a violation of section 8(a) that results in the discharge of an employee or other serious economic harm to an employee, the Board shall award the employee back pay without any reduction (including any reduction based on the employee’s interim earnings or failure to earn interim earnings), front pay (when appropriate), consequential damages, and an additional amount as liquidated damages equal to two times the amount of damages awarded: Provided further, no relief under this subsection shall be denied on the basis that the employee is, or was during the time of relevant employment or during the back pay period, an unauthorized alien as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)) or any other provision of Federal law relating to the unlawful employment of aliens”.

(g) Enforcing Compliance With Orders of the Board.—

(1) In General.—Section 10 of the National Labor Relations Act (29 U.S.C. 160) is further amended—

(A) by striking subsection (e);

(B) by redesignating subsection (d) as subsection (e);
(C) by inserting after subsection (c) the following:

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

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

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

“(A) restrain such person or entity or the offi-
cers, agents, or representatives of such person or enti-
y, from further disobedience to such order; or

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

(D) in subsection (f)—

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

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

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

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

“(2) No objection that has not been urged before the
Board, its member, agent, or agency shall be considered by
a court, unless the failure or neglect to urge such objection
shall be excused because of extraordinary circumstances.

The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken before the Board, its member, agent, or agency, and to be made a part of the record. The Board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals if application was made to the district court, and by the Supreme Court of the United States upon
writ of certiorari or certification as provided in section 1254 of title 28, United States Code.”; and

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

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

(h) Injunctions Against Unfair Labor Practices Involving Discharge or Other Serious Economic Harm.—Section 10 of the National Labor Relations Act (29 U.S.C. 160) is amended—

(1) in subsection (j)—

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

(B) by adding at the end the following:

“(2) Notwithstanding subsection (m), whenever it is charged that an employer has engaged in an unfair labor practice within the meaning of paragraph (1) or (3) of section 8(a) that significantly interferes with, restrains, or coerces employees in the exercise of the rights guaranteed under section 7, or involves discharge or other serious economic harm to an employee, the preliminary investigation of such charge shall be made forthwith and given priority

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over all other cases except cases of like character in the office
where it is filed or to which it is referred. If, after such
investigation, the officer or regional attorney to whom the
matter may be referred has reasonable cause to believe such
charge is true and that a complaint should issue, such offi-
cer or attorney shall bring a petition for appropriate tem-
porary relief or restraining order as set forth in paragraph
(1). The district court shall grant the relief requested unless
the court concludes that there is no reasonable likelihood
that the Board will succeed on the merits of the Board’s
claim.”; and

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

(i) PENALTIES.—

(1) IN GENERAL.—Section 12 of the National
Labor Relations Act (29 U.S.C. 162) is amended—
(A) by striking “SEC. 12. Any person” and
inserting the following:

“SEC. 12. PENALTIES.

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

(B) by adding at the end the following:

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

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

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

“(3) impose a civil penalty in an amount determined appropriate by the Board, except that in no case shall the amount of such penalty exceed $500 for each such violation.

“(c) CIVIL PENALTIES FOR VIOLATIONS.—

“(1) In general.—Any employer who commits an unfair labor practice within the meaning of section 8(a) shall, in addition to any remedy ordered by the Board, be subject to a civil penalty in an amount not to exceed $50,000 for each violation, except that, with respect to an unfair labor practice within the meaning of paragraph (3) or (4) of section 8(a) or a violation of section 8(a) that results in the discharge of an employee or other serious economic harm to an employee, the Board shall double the amount of such penalty, to an amount not to exceed $100,000, in any
case where the employer has within the preceding five years committed another such violation.

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

“(A) the gravity of the unfair labor practice;

“(B) the impact of the unfair labor practice on the charging party, on other persons seeking to exercise rights guaranteed by this Act, and on the public interest; and

“(C) the gross income of the employer.

“(3) DIRECTOR AND OFFICER LIABILITY.—If the Board determines, based on the particular facts and circumstances presented, that a director or officer’s personal liability is warranted, a civil penalty for a violation described in this subsection may also be assessed against any director or officer of the employer who directed or committed the violation, had established a policy that led to such a violation, or had actual or constructive knowledge of and the authority to prevent the violation and failed to prevent the violation.

“(d) RIGHT TO CIVIL ACTION.—
“(1) IN GENERAL.—Any person who is injured by reason of a violation of paragraph (1) or (3) of section 8(a) may, after 60 days following the filing of a charge with the Board alleging an unfair labor practice, bring a civil action in the appropriate district court of the United States against the employer within 90 days after the expiration of the 60-day period or the date the Board notifies the person that no complaint shall issue, whichever occurs earlier, provided that the Board has not filed a petition under section 10(j) of this Act prior to the expiration of the 60-day period. No relief under this subsection shall be denied on the basis that the employee is, or was during the time of relevant employment or during the back pay period, an unauthorized alien as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)) or any other provision of Federal law relating to the unlawful employment of aliens.

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

“(A) back pay without any reduction, including any reduction based on the employee’s interim earnings or failure to earn interim earnings;
“(B) front pay (when appropriate);
“(C) consequential damages;
“(D) an additional amount as liquidated damages equal to two times the cumulative amount of damages awarded under subparagraphs (A) through (C);
“(E) in appropriate cases, punitive damages in accordance with paragraph (4); and
“(F) any other relief authorized by section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)) or by section 1977A(b) of the Revised Statutes (42 U.S.C. 1981a(b)).

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

“(4) PUNITIVE DAMAGES.—In awarding punitive damages under paragraph (2)(E), the court shall consider—

“(A) the gravity of the unfair labor practice;
“(B) the impact of the unfair labor practice on the charging party, on other persons seeking
to exercise rights guaranteed by this Act, and on
the public interest; and

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

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

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

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

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

(k) FAIR SHARE AGREEMENTS PERMITTED.—Section
14(b) of the National Labor Relations Act (29 U.S.C.
164(b)) is amended by striking the period at the end and
inserting the following: “: Provided, That collective bar-
gaining agreements providing that all employees in a bar-
gaining unit shall contribute fees to a labor organization
for the cost of representation, collective bargaining, contract
enforcement, and related expenditures as a condition of em-
employment shall be valid and enforceable notwithstanding any State or Territorial law.”.

**SEC. 3. CONFORMING AMENDMENTS TO THE LABOR MANAGEMENT RELATIONS ACT, 1947.**

The Labor Management Relations Act, 1947 is amended—

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

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

**SEC. 4. AMENDMENTS TO THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959.**

Section 203(c) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 433(c)) is amended by striking the period at the end and inserting the following “: Provided, That this subsection shall not exempt from the requirements of this section any arrangement or part of an arrangement in which a party agrees, for an object described in subsection (b)(1), to plan or conduct employee meetings; train supervisors or employer representatives to
conduct meetings; coordinate or direct activities of supervisors or employer representatives; establish or facilitate employee committees; identify employees for disciplinary action, reward, or other targeting; or draft or revise employer personnel policies, speeches, presentations, or other written, recorded, or electronic communications to be delivered or disseminated to employees.”.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

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

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

DECEMBER 16, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed.