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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R.

To reform the labor laws of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. ALLEN introduced the following bill; which was referred to the Committee
on _____

A BILL

To reform the labor laws of the United States, and for
other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Employee Rights Act”.

5 **SEC. 2. TABLE OF CONTENTS.**

6 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—ENHANCING EMPLOYEE RIGHTS

- Sec. 101. Enhanced Employee Rights.
- Sec. 102. Interference with commerce by threats or violence.

Sec. 103. Additional labor rights under the National Labor Relations Act.

TITLE II—EMPLOYEE BENEFITS AND ADVANCEMENT

Sec. 201. Payment of higher wages.

Sec. 202. Employment relationships.

Sec. 203. Preventing Federal actions that cause job losses.

TITLE III—STRUCTURAL REFORMS

Sec. 301. Tribal Sovereignty.

Sec. 302. Labor organizations required to file Form T-1 Trust Annual Reports.

TITLE IV—ADDITIONAL REFORMS TO EXISTING LABOR RIGHTS AND PROTECTIONS

Sec. 401. Notice of rights and protections; voter registration lists.

Sec. 402. Labor organization use of personal information.

Sec. 403. Notices for labor organization cards declaring purpose and disclosure of dues and fees.

1 **TITLE I—ENHANCING**
2 **EMPLOYEE RIGHTS**

3 **SEC. 101. ENHANCED EMPLOYEE RIGHTS.**

4 (a) AMENDMENTS TO THE NATIONAL LABOR RELA-
5 TIONS ACT.—

6 (1) UNFAIR LABOR PRACTICES.—Section
7 8(b)(1) of the National Labor Relations Act (29
8 U.S.C. 158(b)(1)) is amended by striking “restrain
9 or” and inserting “interfere with, restrain, or”.

10 (2) REPRESENTATIVES AND ELECTIONS.—The
11 National Labor Relations Act is amended—

12 (A) in section 8 (29 U.S.C. 158), by add-
13 ing at the end the following:

14 “(h)(1) Except as described in paragraph (3), it shall
15 not be an unfair labor practice under subsection (a) for
16 an employer that, not more than 90 days prior to the expi-
17 ration of a collective bargaining agreement in effect be-

1 tween a representative of employees of the employer in a
2 bargaining unit and the employer, receives evidence that
3 the majority of the employees in the unit do not support
4 the representative for purposes of collective bargaining to
5 refuse to bargain collectively with the representative prior
6 to the expiration of the agreement for the purpose of nego-
7 tiating a new or renewed collective bargaining agreement.

8 “(2) An employer that refuses to bargain collectively
9 in accordance with paragraph (1) shall provide notice of
10 the refusal to the representative of the bargaining unit on
11 the date of such refusal.

12 “(3)(A) It shall be an unfair labor practice for an
13 employer described in paragraph (1) to refuse to bargain
14 collectively with the representative of the bargaining unit
15 described in such paragraph for the purpose of negotiating
16 a new or renewed collective bargaining agreement prior
17 to the expiration of the agreement in effect between the
18 representative and the employer if the representative rees-
19 tablishes in accordance with subparagraph (B) that a ma-
20 jority of the employees in the unit for purposes of collec-
21 tive bargaining support the representative.

22 “(B) A representative reestablishes majority support
23 under subparagraph (A), if, not more than 45 days after
24 the date of the notice of refusal under paragraph (2), the
25 representative, in accordance with section 9, files a peti-

1 tion with the Board and is selected for purposes of collec-
2 tive bargaining by secret ballot, in an election conducted
3 by the Board, by the majority of the employees in the
4 unit.”; and

5 (B) in section 9(a) (29 U.S.C. 159(a))—

6 (i) by striking “designated or selected
7 for the purposes of collective bargaining”
8 and inserting “for the purposes of collec-
9 tive bargaining selected by secret ballot in
10 an election conducted by the Board,”; and

11 (ii) by inserting before the period the
12 following: “: *Provided further*, That, for
13 purposes of determining the majority of
14 the employees in a secret ballot election in
15 a unit, the term ‘majority’ shall mean the
16 majority of all the employees in the unit,
17 and not the majority of employees voting
18 in the election: *Provided further*, That, for
19 any bargaining unit that is voluntarily rec-
20 ognized for the purposes of collective bar-
21 gaining as of the date of enactment of the
22 Employee Rights Act, the Board shall, not
23 later than 120 days after such date of en-
24 actment, conduct a secret ballot election
25 among the represented employees in the

1 bargaining unit and, if a majority of the
2 votes cast in such election reject the con-
3 tinuing representation by the labor organi-
4 zation, the labor organization shall cease
5 representation of employees in the bar-
6 gaining unit and any obligations to or on
7 behalf of the labor organization in a collec-
8 tively bargained contract then in effect
9 shall terminate”.

10 (3) FAIR REPRESENTATION IN ELECTIONS.—

11 Section 9 of the National Labor Relations Act (29
12 U.S.C. 159) is amended—

13 (A) in subsection (b), by inserting “prior
14 to an election” after “in each case”; and

15 (B) in subsection (c)—

16 (i) in the flush matter following para-
17 graph (1)(B)—

18 (I) by inserting “of 14 days in
19 advance” after “appropriate hearing
20 upon due notice”;

21 (II) by inserting “, and a review
22 of post-hearing appeals,” after “the
23 record of such hearing”; and

24 (III) by adding at the end the
25 following: “The employer shall provide

1 the Board a list consisting only of em-
2 ployee names and home addresses of
3 all eligible voters within 7 days fol-
4 lowing the Board's determination of
5 the appropriate unit or following any
6 agreement between the employer and
7 the labor organization regarding the
8 eligible voters. Any employee may
9 elect to be excluded from such list by
10 notifying the employer in writing.”;
11 and

12 (ii) by adding at the end the fol-
13 lowing:

14 “(6)(A) No election shall take place after the filing
15 of any petition unless and until—

16 “(i) a hearing is conducted before a qualified
17 hearing officer in accordance with due process on
18 any and all material, factual issues regarding juris-
19 diction, statutory coverage, appropriate unit, unit in-
20 clusion or exclusion, or eligibility of individuals; and

21 “(ii) the issues are resolved by a regional direc-
22 tor, subject to appeal and review, or by the Board.

23 “(B) No election results shall be final and no labor
24 organization shall be certified as the bargaining represent-

1 ative of the employees in an appropriate unit unless and
2 until—

3 “(i) the Board has ruled on each pre-election
4 issue not resolved before the election; and

5 “(ii) the Board conducts a hearing in accord-
6 ance with due process and resolves each issue per-
7 taining to the conduct or results of the election.”.

8 (4) PENALTIES.—Section 10(c) of the National
9 Labor Relations Act (29 U.S.C. 160(c)) is amended
10 by inserting before “*And provided further*” the fol-
11 lowing: “*Provided further*, That in a case the Board
12 has found that any labor organization has interfered
13 with, restrained, or coerced employees in the exercise
14 of their rights under section 7 to form or join a
15 labor organization or to refrain therefrom, including
16 the filing of a decertification petition, the Board
17 shall order the labor organization to be liable to the
18 affected employees for wages lost and labor organi-
19 zation dues or fees collected unlawfully, if any, and
20 an additional amount as liquidated damages: *Pro-*
21 *vided further*, That any labor organization found to
22 have interfered with, restrained, or coerced an em-
23 ployee in connection with the filing of a decertifica-
24 tion petition shall be prohibited from filing objec-
25 tions to an election held pursuant to such petition:”.

1 (b) AMENDMENTS TO THE LABOR-MANAGEMENT RE-
2 PORTING AND DISCLOSURE ACT OF 1959.—

3 (1) DEFINITION.—Section 3(k) of the Labor-
4 Management Reporting and Disclosure Act of 1959
5 (29 U.S.C. 402(k)) is amended by striking “ballot,
6 voting machine, or otherwise, but” and inserting
7 “paper ballot, voting machine, or electronic ballot
8 cast in the privacy of a voting booth and”.

9 (2) RIGHTS OF MEMBERS.—Section 101(a)(1)
10 of the Labor-Management Reporting and Disclosure
11 Act of 1959 (29 U.S.C. 411(a)(1)) is amended by
12 adding at the end the following “Every employee in
13 a bargaining unit represented by a labor organiza-
14 tion, regardless of membership status in the labor
15 organization, shall have the same right as members
16 to vote by secret ballot regarding whether to ratify
17 a collective bargaining agreement with, or to engage
18 in a strike or refusal to work of any kind against,
19 their employer.”.

20 (3) RIGHT NOT TO SUBSIDIZE LABOR ORGANI-
21 ZATION NONREPRESENTATIONAL ACTIVITIES.—Title
22 I of the Labor-Management Reporting and Disclo-
23 sure Act of 1959 (29 U.S.C. 411 et seq.) is amended
24 by adding at the end the following:

1 **“SEC. 106. RIGHT NOT TO SUBSIDIZE LABOR ORGANIZA-**
2 **TION NONREPRESENTATIONAL ACTIVITIES.**

3 “No employee’s labor organization dues, fees, assess-
4 ments, or other contributions shall be used or contributed
5 to any person, organization, or entity for any purpose not
6 directly related to the labor organization’s collective bar-
7 gaining or contract administration functions on behalf of
8 the represented unit employee unless the employee mem-
9 ber, or nonmember required to make such payments as
10 a condition of employment, authorizes such expenditure in
11 writing, after a notice period of not less than 35 days.
12 An initial authorization provided by an employee under
13 the preceding sentence shall expire not later than 1 year
14 after the date on which such authorization is signed by
15 the employee. There shall be no automatic renewal of an
16 authorization under this section.”.

17 (4) LIMITATIONS.—Section 101(a) of the
18 Labor-Management Reporting and Disclosure Act of
19 1959 (29 U.S.C. 411(a)) is amended by adding at
20 the end the following:

21 “(6) LIMITATION.—No strike shall commence with-
22 out the consent of a majority of all represented unit em-
23 ployees affected, determined by a secret ballot vote con-
24 ducted by a neutral, private organization chosen by agree-
25 ment between the employer and the labor organization in-
26 volved. In any case in which the employer involved has

1 made an offer for a collective bargaining agreement, the
2 represented unit employees involved shall be provided the
3 opportunity for a secret ballot vote on such offer prior to
4 any vote relating to the commencement of a strike. The
5 cost of any such election shall be borne by the labor orga-
6 nization.”.

7 (5) REPORTING BY LABOR ORGANIZATIONS.—
8 Section 201(c) of the Labor-Management Reporting
9 and Disclosure Act of 1959 (29 U.S.C. 431(c)) is
10 amended—

11 (A) by inserting “and the independently
12 verified annual audit report of the labor organi-
13 zation’s financial condition and operations”
14 after “required to be contained in such report”;

15 (B) by inserting “and represented unit
16 nonmembers” after “members”;

17 (C) by inserting “and represented unit
18 nonmember” after “any member”;

19 (D) by inserting “or represented unit non-
20 member” after “to permit such member”;

21 (E) by striking “and” after “any books,
22 records,”; and

23 (F) by striking “necessary to verify such
24 report” and inserting “, and independently
25 verified annual audit report of the labor organi-

1 zation’s financial condition and operations nec-
2 essary to verify such report required to be sub-
3 mitted under this title”.

4 (6) ACTS OF VIOLENCE.—Section 610 of the
5 Labor-Management Reporting and Disclosure Act of
6 1959 (29 U.S.C. 530) is amended—

7 (A) by striking “It shall” and inserting
8 “(a) It shall”; and

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

10 “(b) It shall be unlawful for any person, through the
11 use of force or violence, or threat of the use of force or
12 violence, to restrain, coerce, or intimidate, or attempt to
13 restrain, coerce, or intimidate any person for the purpose
14 of obtaining from any person any right to represent em-
15 ployees or any compensation or other term or condition
16 of employment. Any person who willfully violates this sub-
17 section shall be fined not more than \$100,000 or impris-
18 oned for not more than 10 years, or both.

19 “(c) The lawfulness of a labor organization’s objec-
20 tives shall not remove or exempt from the definition of
21 extortion conduct by the labor organization or its agents
22 that otherwise constitutes extortion as defined by section
23 1951(b)(2) of title 18, United States Code.”.

1 **SEC. 102. INTERFERENCE WITH COMMERCE BY THREATS**
2 **OR VIOLENCE.**

3 Section 1951 of title 18, United States Code, is
4 amended to read as follows:

5 **“§ 1951. Interference with commerce by threats or vi-**
6 **olence**

7 “(a) PROHIBITION.—Except as provided in sub-
8 section (c), whoever in any way or degree obstructs,
9 delays, or affects commerce or the movement of any article
10 or commodity in commerce, by robbery or extortion, or at-
11 tempts or conspires so to do, or commits or threatens
12 physical violence to any person or property in furtherance
13 of a plan or purpose to do anything in violation of this
14 section, shall be fined not more than \$100,000, imprisoned
15 for a term of not more than 20 years, or both.

16 “(b) DEFINITIONS.—For purposes of this section—

17 “(1) the term ‘commerce’ means any—

18 “(A) commerce within the District of Co-
19 lumbia, or any territory or possession of the
20 United States;

21 “(B) commerce between any point in a
22 State, territory, possession, or the District of
23 Columbia and any point outside thereof;

24 “(C) commerce between points within the
25 same State through any place outside that
26 State; and

1 “(D) other commerce over which the
2 United States has jurisdiction;

3 “(2) the term ‘extortion’ means the obtaining of
4 property from any person, with the consent of that
5 person, if that consent is induced—

6 “(A) by actual or threatened use of force
7 or violence, or fear thereof;

8 “(B) by wrongful use of fear not involving
9 force or violence; or

10 “(C) under color of official right;

11 “(3) the term ‘labor dispute’ has the same
12 meaning as in section 2(9) of the National Labor
13 Relations Act (29 U.S.C. 152(9)); and

14 “(4) the term ‘robbery’ means the unlawful tak-
15 ing or obtaining of personal property from the per-
16 son or in the presence of another, against his or her
17 will, by means of actual or threatened force or vio-
18 lence, or fear of injury, immediate or future—

19 “(A) to his or her person or property, or
20 property in his or her custody or possession; or

21 “(B) to the person or property of a relative
22 or member of his or her family, or of anyone in
23 his or her company at the time of the taking or
24 obtaining.

25 “(c) EXEMPTED CONDUCT.—

1 “(1) IN GENERAL.—Subsection (a) does not
2 apply to any conduct that—

3 “(A) is incidental to otherwise peaceful
4 picketing during the course of a labor dispute;

5 “(B) consists solely of minor bodily injury,
6 or minor damage to property, or threat or fear
7 of such minor injury or damage; and

8 “(C) is not part of a pattern of violent con-
9 duct or of coordinated violent activity.

10 “(2) STATE AND LOCAL JURISDICTION.—Any
11 violation of this section that involves any conduct de-
12 scribed in paragraph (1) shall be subject to prosecu-
13 tion only by the appropriate State and local authori-
14 ties.

15 “(d) EFFECT ON OTHER LAW.—Nothing in this sec-
16 tion shall be construed—

17 “(1) to repeal, amend, or otherwise affect—

18 “(A) section 6 of the Clayton Act (15
19 U.S.C. 17);

20 “(B) section 20 of the Clayton Act (29
21 U.S.C. 52);

22 “(C) any provision of the Norris-
23 LaGuardia Act (29 U.S.C. 101 et seq.);

24 “(D) any provision of the National Labor
25 Relations Act (29 U.S.C. 151 et seq.); or

1 “(E) any provision of the Railway Labor
2 Act (45 U.S.C. 151 et seq.); or

3 “(2) to preclude Federal jurisdiction over any
4 violation of this section, on the basis that the con-
5 duct at issue—

6 “(A) is also a violation of State or local
7 law; or

8 “(B) occurred during the course of a labor
9 dispute or in pursuit of a legitimate business or
10 labor objective.”.

11 **SEC. 103. ADDITIONAL LABOR RIGHTS UNDER THE NA-**
12 **TIONAL LABOR RELATIONS ACT.**

13 (a) **RELIGIOUS CONSCIENTIOUS EXEMPTION.**—Sec-
14 tion 19 of the National Labor Relations Act (29 U.S.C.
15 169) is amended—

16 (1) by striking “Any employee” and inserting
17 “(a) Any employee”;

18 (2) by striking “; except that” and all that fol-
19 lows through “chosen by the employee”; and

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

21 “(b)(1) Notwithstanding any other provision in this
22 Act, a qualified employer shall not be required to comply
23 with any provision in this Act that requires the employer
24 to recognize, bargain with, or financially support any labor
25 organization.

1 “(2) For purposes of this subsection—

2 “(A) the term ‘qualified employer’ means an
3 employer—

4 “(i) that has a board of directors, of which
5 a majority of the individuals serving on such
6 board are qualified individuals;

7 “(ii) that has a stock, of which the major-
8 ity is owned or controlled by a qualified indi-
9 vidual or qualified individuals; or

10 “(iii) whose management is controlled, in
11 majority, by a qualified individual or qualified
12 individuals; and

13 “(B) the term ‘qualified individual’ means an
14 individual who is a member of and adheres to estab-
15 lished and traditional tenets or teachings of a bona
16 fide religion, body, or sect which has historically held
17 conscientious objections to recognizing, bargaining
18 with, or financially supporting labor organizations.”.

19 (b) NEW ELECTIONS IN CASES OF LABOR ORGANIZA-
20 TION MISCONDUCT.—Section 9(c) of the National Labor
21 Relations Act (29 U.S.C. 159(c)), as amended by section
22 101(a)(3)(B), is further amended by adding at the end
23 the following:

24 “(7) In any case in which the Board determines that
25 the results of an election under this subsection were influ-

1 enced by the misconduct of a labor organization, including
2 misconduct through interference, restraint, or coercion of
3 an employee with respect to such election, the Board shall
4 set aside the results of such election and order a new elec-
5 tion with appropriate additional safeguards necessary to
6 ensure a fair election process.”.

7 (c) RIGHTS OF EMPLOYERS REGARDING EMPLOYER-
8 ISSUED TECHNOLOGY.—The National Labor Relations
9 Act (29 U.S.C. 151 et seq.) is amended—

10 (1) by inserting after section 7 (29 U.S.C. 157)
11 the following:

12 **“SEC. 7A. RIGHTS OF EMPLOYERS REGARDING EMPLOYER-**
13 **ISSUED TECHNOLOGY.**

14 “An employer shall have the right to determine how
15 technology issued by the employer (including communica-
16 tion devices and systems) is used by employees and to pro-
17 hibit employees from using any such technology for efforts
18 to form, join, or assist a labor organization.”; and

19 (2) in section 8 (29 U.S.C. 158), as amended
20 by section 101(a)(2)(A), by adding at the end the
21 following:

22 “(i) It shall be an unfair labor practice for an em-
23 ployee or a labor organization to interfere with the right
24 of an employer under section 7A, including by violating

1 or encouraging employees to violate a prohibition of an
2 employer described in such section.”.

3 (d) REJECTING ARBITRATED FIRST COLLECTIVE
4 BARGAINING AGREEMENTS.—Section 9 of the National
5 Labor Relations Act (29 U.S.C. 159) is amended by add-
6 ing at the end the following:

7 “(f) Notwithstanding any other provision of law, in
8 the case of any collective bargaining agreement that was
9 made through arbitration and that is the first such agree-
10 ment between an employer and a labor organization, the
11 employees covered by such agreement shall have the right
12 to vote on the ratification of such agreement through a
13 secret ballot election. In the case that such employees ex-
14 ercise such right and a majority of the employees vote
15 against ratifying the agreement, the agreement shall be
16 null and void.”.

17 (e) WAITING PERIOD AFTER FAILED LABOR ORGA-
18 NIZATION VOTE.—Section 9(c) of the National Labor Re-
19 lations Act (29 U.S.C. 159(c)), as amended by subsection
20 (b), is further amended—

21 (1) in paragraph (3), by striking the first sen-
22 tence; and

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

24 “(8)(A) Subject to subparagraph (B), no election
25 shall be conducted pursuant to this subsection in any bar-

1 gaining unit within which, in the preceding 2-year period,
2 a valid election was held and a majority of the employees
3 in such bargaining unit voted against representation.

4 “(B) An election may be held in a case described in
5 subparagraph (A) during the period described in such sub-
6 paragraph if the bargaining unit described in such sub-
7 paragraph experiences turnover, expansion, or alteration
8 by merger of unit represented employees exceeding 50 per-
9 cent of the bargaining unit on the date on which the elec-
10 tion resulting in a majority of the employees in the unit
11 voting against representation occurred.”

12 (f) COLLECTIVE OR CLASS ACTIONS.—Section 7 of
13 the National Labor Relations Act (29 U.S.C. 157) is
14 amended by adding at the end the following: “Nothing in
15 this section shall confer the right of an employee to sup-
16 port or engage in a class or collective action.”

17 **TITLE II—EMPLOYEE BENEFITS** 18 **AND ADVANCEMENT**

19 **SEC. 201. PAYMENT OF HIGHER WAGES.**

20 Section 9(a) of the National Labor Relations Act (29
21 U.S.C. 159(a)) is amended—

22 (1) by inserting “(1)” after “(a)”; and

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

24 “(2) Notwithstanding a labor organization’s exclusive
25 representation of employees in a unit, or the terms and

1 conditions of any collective bargaining contract or agree-
2 ment then in effect, nothing in either—

3 “(A) paragraph (1) or (5) of section 8(a), or

4 “(B) a collective bargaining contract or agree-
5 ment renewed or entered into after the date of en-
6 actment of the Employee Rights Act,

7 shall prohibit an employer from paying an employee in the
8 unit greater wages, pay, or other compensation for, or by
9 reason of, his or her services as an employee of such em-
10 ployer, than provided for in such contract or agreement.”.

11 **SEC. 202. EMPLOYMENT RELATIONSHIPS.**

12 (a) AMENDMENTS TO THE FAIR LABOR STANDARDS
13 ACT OF 1938 TO HARMONIZE THE DEFINITION OF EM-
14 PLOYEE.—

15 (1) DEFINITION OF EMPLOYEE.—Section
16 3(e)(1) of the Fair Labor Standards Act of 1938
17 (29 U.S.C. 203(e)(1)) is amended by inserting be-
18 fore the period the following: “, as determined under
19 the usual common law rules”.

20 (2) DEFINITION OF EMPLOY.—Section 3(g) of
21 the Fair Labor Standards Act of 1938 (29 U.S.C.
22 203(g)) is amended by inserting “an employee” after
23 “permit”.

24 (b) CLARIFICATION OF JOINT EMPLOYMENT.—

1 (1) NATIONAL LABOR RELATIONS ACT.—Sec-
2 tion 2(2) of the National Labor Relations Act (29
3 U.S.C. 152(2)) is amended—

4 (A) by striking “The term ‘employer’” and
5 inserting “(A) The term ‘employer’”; and

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

7 “(B) An employer may be considered a joint employer
8 of the employees of another employer only if each employer
9 directly, actually, and immediately, and not in a limited
10 and routine manner, exercises significant control over the
11 essential terms and conditions of employment of the em-
12 ployees of the other employer, such as hiring such employ-
13 ees, discharging such employees, determining the rate of
14 pay and benefits of such employees, supervising such em-
15 ployees on a day-to-day basis, assigning such employees
16 a work schedule, position, or task, or disciplining such em-
17 ployees.”.

18 (2) FAIR LABOR STANDARDS ACT OF 1938.—
19 Section 3(d) of the Fair Labor Standards Act of
20 1938 (29 U.S.C. 203(d)) is amended—

21 (A) by striking “‘Employer’ includes” and
22 inserting “(1) ‘Employer’ includes”; and

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

24 “(2) An employer may be considered a joint employer
25 of the employees of another employer for purposes of this

1 Act only if each employer meets the criteria set forth in
2 section 2(2)(B) of the National Labor Relations Act (29
3 U.S.C. 152(2)(B)) except that, for purposes of deter-
4 mining joint-employer status under this Act, the terms
5 ‘employee’ and ‘employer’ referenced in such section shall
6 have the meanings given such terms in this section.”.

7 (c) BENEFITS FOR INDIVIDUALS ACCESSING WORK
8 THROUGH A DIGITAL MARKETPLACE COMPANY.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of law, the fact that an individual access-
11 ing work through a digital marketplace company re-
12 ceives retirement or fringe benefits from such digital
13 marketplace company shall not establish, or support
14 the establishment of, an employee and employer re-
15 lationship between the individual accessing work
16 through a digital marketplace company and the dig-
17 ital marketplace company, respectively, under the
18 Fair Labor Standards Act of 1938 (29 U.S.C. 201
19 et seq.), the National Labor Relations Act (29
20 U.S.C. 151 et seq.), or any other Federal law.

21 (2) DEFINITIONS.—In this subsection:

22 (A) DIGITAL MARKETPLACE COMPANY.—

23 The term “digital marketplace company” means
24 a business entity affecting commerce that—

1 (i)(I) maintains an online-enabled ap-
2 plication or platform to facilitate the ex-
3 change of goods or services by users of the
4 online-enabled application or platform; or

5 (II) licenses access to an online-en-
6 abled application or platform to facilitate
7 the exchange of goods or services; and

8 (ii) does not require a licensee using
9 the online-enabled application or platform
10 to generate business to accept any specific
11 job request as a condition of maintaining
12 access to the entity's online-enabled appli-
13 cation or platform.

14 (B) INDIVIDUAL ACCESSING WORK
15 THROUGH A DIGITAL MARKETPLACE COM-
16 PANY.—The term “individual accessing work
17 through a digital marketplace company” means
18 an individual who—

19 (i) is provided with the option to ac-
20 cept or reject job requests through an on-
21 line-enabled application or platform main-
22 tained by a digital marketplace company;
23 and

24 (ii) provides services to digital plat-
25 form consumers upon connection through a

1 digital network maintained by the digital
2 marketplace company in exchange for com-
3 pensation or payment of a fee.

4 (d) PROVISION OF TECHNICAL ASSISTANCE.—Not-
5 withstanding any other provision of law, under the Fair
6 Labor Standards Act of 1938 (29 U.S.C. 201 et seq.),
7 the National Labor Relations Act (29 U.S.C. 151 et seq.),
8 or any other Federal law, none of the following may be
9 construed, alone or in combination with any other factor,
10 as establishing an employer and employee relationship be-
11 tween a franchisor (or any employee of the franchisor) and
12 a franchisee (or any employee of the franchisee):

13 (1) The franchisor (or any employee of the
14 franchisor) provides the franchisee (or any employee
15 of the franchisee) with, or requires such franchisee
16 (or any employee of the franchisee) to use, a hand-
17 book, or other training, on sexual harassment,
18 human trafficking, workplace violence, discrimina-
19 tion, or opportunities for apprenticeships or scholar-
20 ships.

21 (2) The franchisor (or any employee of the
22 franchisor) requires the franchisee (or any employee
23 of the franchisee) to adopt a policy on sexual harass-
24 ment, human trafficking, workplace violence, dis-
25 crimination, opportunities for apprenticeships or

1 scholarships, child care, or paid leave, including a
2 requirement for such franchisee (or any employee of
3 the franchisee) to report to the franchisor (or any
4 employee of the franchisor) any violations or sus-
5 pected violations of such policy.

6 (e) PROTECTION OF EMPLOYER RIGHTS.—

7 (1) PURPOSES.—The purposes of this sub-
8 section are—

9 (A) to preserve the balance of rights be-
10 tween employers, employees, and labor organi-
11 zations; and

12 (B) to alleviate pressure on employers to
13 hire individuals who seek or gain employment in
14 order to disrupt the workplace of the employer
15 or otherwise inflict economic harm designed to
16 put the employer out of business.

17 (2) CLARIFICATION OF EMPLOYER RIGHTS RE-
18 GARDING HIRING.—Section 8 of the National Labor
19 Relations Act (29 U.S.C. 158), as amended by sec-
20 tion 103(c)(2), is further amended by adding at the
21 end the following:

22 “(j) Nothing in subsection (a) shall be construed as
23 requiring an employer to employ any person who seeks or
24 has sought employment with the employer in furtherance

1 of other employment or membership in a labor organiza-
2 tion.”.

3 **SEC. 203. PREVENTING FEDERAL ACTIONS THAT CAUSE**
4 **JOB LOSSES.**

5 (a) DEFINITIONS.—In this section:

6 (1) AGENCY; RULE.—The terms “agency” and
7 “rule” have the meanings given those terms in sec-
8 tion 551 of title 5, United States Code.

9 (2) DIRECTOR.—The term “Director” means
10 the Director of the Office of Management and Budg-
11 et.

12 (3) EMPLOYER.—The term “employer” has the
13 meaning given the term in section 2 of the Worker
14 Adjustment and Retraining Notification Act (29
15 U.S.C. 2101).

16 (4) MASS LAYOFF; PLANT CLOSING.—The
17 terms “mass layoff” and “plant closing” have the
18 meanings given those terms in section 2 of the
19 Worker Adjustment and Retraining Notification Act
20 (29 U.S.C. 2101), except that those terms do not in-
21 clude a mass layoff or plant closing described in sec-
22 tion 4 of that Act (29 U.S.C. 2103).

23 (5) RESCISSION RESOLUTION.—The term “re-
24 scission resolution” means a joint resolution—

1 (A) relating to an Executive Order for
2 which the Director has submitted notice to Con-
3 gress under subsection (d)(2) that the Execu-
4 tive Order is likely to result in an employer or-
5 dering a plant closing or mass layoff;

6 (B) which does not have a preamble;

7 (C) the title of which is as follows: “Joint
8 resolution relating to nullifying the Executive
9 Order relating to ____.”, the blank space
10 being filled in with the title of the Executive
11 Order; and

12 (D) the matter after the resolving clause of
13 which is as follows: “That—

14 “(1) effective as if enacted on the date on which
15 the Executive Order was issued, the provisions of
16 Executive Order _____, entitled ‘ _____ ’
17 are rescinded and shall have no force or effect; and

18 “(2) none of the funds appropriated or other-
19 wise made available by any Act may be used to im-
20 plement, administer, or otherwise carry out the Ex-
21 ecutive Order described in paragraph (1), or any
22 successor Executive order or regulation.”, the blank
23 spaces being filled in with the number and title, re-
24 spectively, of the Executive Order.

25 (6) STATE.—The term “State” means—

- 1 (A) a State;
- 2 (B) the District of Columbia;
- 3 (C) the Commonwealth of Puerto Rico;
- 4 and
- 5 (D) any other territory or possession of the
- 6 United States.

7 (b) REVIEW PROCESS OF AGENCY RULES.—

8 (1) IN GENERAL.—The head of an agency shall

9 include in each report relating to a rule submitted

10 to each House of Congress and the Comptroller Gen-

11 eral of the United States under section 801(a)(1)(A)

12 of title 5, United States Code, a regulatory impact

13 statement that includes—

14 (A) a determination of whether the rule is

15 likely to result in an employer ordering—

- 16 (i) a plant closing; or
- 17 (ii) a mass layoff; and

18 (B) if the head of the agency makes a

19 positive determination under subparagraph (A),

20 a list of each State in which an employer is

21 likely to order a plant closing or mass layoff as

22 a result of the rule.

23 (2) CONSIDERATIONS.—In making a determina-

24 tion on a rule under paragraph (1)(A), the head of

1 an agency shall consider comments received from the
2 public.

3 (3) NOTIFICATION.—Not later than the date on
4 which the head of an agency issues a rule for which
5 the head of the agency makes a positive determina-
6 tion under paragraph (1)(A), the head of the agency
7 shall notify—

8 (A) the Governor of any State included in
9 a list described in paragraph (1)(B) of the like-
10 lihood of an employer ordering a plant closing
11 or mass layoff in that State as a result of the
12 rule; and

13 (B) any employees likely to be impacted by
14 an employer ordering a plant closing or mass
15 layoff that may occur as a result of the rule.

16 (c) TIME LIMIT FOR CONGRESSIONAL REVIEW INAP-
17 PPLICABLE.—With respect to a rule for which the head of
18 an agency makes a positive determination under sub-
19 section (b)(1)(A), the period during which a joint resolu-
20 tion described in section 802(a) of title 5, United States
21 Code, relating to the rule may be introduced shall be un-
22 limited.

23 (d) REVIEW PROCESS OF EXECUTIVE ORDERS.—

24 (1) IN GENERAL.—Not later than 7 days after
25 the date on which the President issues an Executive

1 Order, the Director shall determine whether the Ex-
2 ecutive Order is likely to result in an employer or-
3 dering a mass layoff or plant closing.

4 (2) NOTIFICATION.—Not later than 15 days
5 after the date on which the President issues an Ex-
6 ecutive Order for which the Director makes a posi-
7 tive determination under paragraph (1), the Director
8 shall submit a notice to Congress and the Governor
9 of any State in which an employer is likely to order
10 a plant closing or mass layoff as a result of the Ex-
11 ecutive Order, which shall contain the following mes-
12 sage:

13 “In accordance with section 203 of the Em-
14 ployee Rights Act, I am notifying you that the Presi-
15 dent has issued Executive Order Number _____,
16 which I have determined would likely result in an
17 employer ordering a plant closing or mass layoff at
18 _____.”, the blank spaces being filled in with
19 the number of the Executive Order and the address
20 of the single site of employment at which an em-
21 ployer is likely to order a plant closing or mass lay-
22 off, respectively.

23 (e) NULLIFICATION OF EXECUTIVE ACTIONS.—

24 (1) IN GENERAL.—It shall be in order, not later
25 than 60 days (excluding days either House of Con-

1 gress is adjourned for more than 3 days during a
2 session of Congress) after the date on which the Di-
3 rector notifies Congress of an Executive Order that
4 is likely to result in an employer ordering a plant
5 closing or mass layoff under subsection (d)(2), to in-
6 troduce a rescission resolution in the House of Rep-
7 resentatives or the Senate with respect to the Execu-
8 tive Order.

9 (2) CONGRESSIONAL CONSIDERATION OF PRO-
10 POSED RESCISSION RESOLUTIONS.—

11 (A) PROCEDURE IN HOUSE AND SEN-
12 ATE.—

13 (i) REFERRAL.—Any rescission reso-
14 lution introduced under paragraph (1)
15 shall be referred to the appropriate com-
16 mittee of the House of Representatives or
17 the Senate, as the case may be.

18 (ii) DISCHARGE OF COMMITTEE.—

19 (I) IN GENERAL.—If the com-
20 mittee to which a rescission resolution
21 with respect to an Executive Order
22 has been referred has not reported it
23 at the end of 25 calendar days of con-
24 tinuous session of the Congress after

1 its introduction, it is in order to move
2 to—

3 (aa) discharge the com-
4 mittee from further consideration
5 of the rescission resolution; or

6 (bb) discharge the com-
7 mittee from further consideration
8 of any other rescission resolution
9 with respect to the same Execu-
10 tive Order, which has been re-
11 ferred to the committee.

12 (II) MOTION TO DISCHARGE.—A
13 motion to discharge may be made only
14 by an individual favoring the rescis-
15 sion resolution and may be made only
16 if supported by one-fifth of the Mem-
17 bers of the House involved (a quorum
18 being present). The motion is highly
19 privileged in the House and privileged
20 in the Senate (except that it may not
21 be made after the committee has re-
22 ported a rescission resolution with re-
23 spect to the same Executive Order)
24 and debate thereon shall be limited to
25 not more than 1 hour, the time to be

1 divided in the House equally between
2 those favoring and those opposing the
3 rescission resolution, and to be divided
4 in the Senate equally between, and
5 controlled by, the majority leader and
6 the minority leader or their designees.
7 An amendment to the motion is not in
8 order, and it is not in order to move
9 to reconsider the vote by which the
10 motion is agreed to or disagreed to.

11 (iii) FLOOR CONSIDERATION IN THE
12 HOUSE.—

13 (I) When the committee of the
14 House of Representatives has re-
15 ported, or has been discharged from
16 further consideration of a rescission
17 resolution, it shall at any time there-
18 after be in order (even though a pre-
19 vious motion to the same effect has
20 been disagreed to) to move to proceed
21 to the consideration of the rescission
22 resolution. The motion shall be highly
23 privileged and not debatable. An
24 amendment to the motion shall not be
25 in order, nor shall it be in order to

1 move to reconsider the vote by which
2 the motion is agreed to or disagreed
3 to.

4 (II) Debate on a rescission reso-
5 lution shall be limited to not more
6 than 2 hours, which shall be divided
7 equally between those favoring and
8 those opposing the rescission resolu-
9 tion or resolution. A motion further to
10 limit debate shall not be debatable. It
11 shall not be in order to move to recon-
12 sider the vote by which a rescission
13 resolution is agreed to or disagreed to.

14 (III) Motions to postpone, made
15 with respect to the consideration of a
16 rescission resolution, and motions to
17 proceed to the consideration of other
18 business, shall be decided without de-
19 bate.

20 (IV) All appeals from the deci-
21 sions of the Chair relating to the ap-
22 plication of the Rules of the House of
23 Representatives to the procedure re-
24 lating to any rescission resolution
25 shall be decided without debate.

1 (V) Except to the extent specifi-
2 cally provided in the preceding provi-
3 sions of this subsection, consideration
4 of any rescission resolution and
5 amendments thereto (or any con-
6 ference report thereon) shall be gov-
7 erned by the Rules of the House of
8 Representatives applicable to other re-
9 scission resolutions and resolutions,
10 amendments, and conference reports
11 in similar circumstances.

12 (iv) FLOOR CONSIDERATION IN THE
13 SENATE.—

14 (I) Debate in the Senate on any
15 rescission resolution, and all amend-
16 ments thereto and debatable motions
17 and appeals in connection therewith,
18 shall be limited to not more than 10
19 hours. The time shall be equally di-
20 vided between, and controlled by, the
21 majority leader and the minority lead-
22 er or their designees.

23 (II) Debate in the Senate on any
24 amendment to a rescission resolution
25 shall be limited to 2 hours, to be

1 equally divided between, and con-
2 trolled by, the mover and the manager
3 of the rescission resolution. Debate on
4 any amendment to an amendment, to
5 such a rescission resolution, and de-
6 bate on any debatable motion or ap-
7 peal in connection with such a rescis-
8 sion resolution shall be limited to 1
9 hour, to be equally divided between,
10 and controlled by, the mover and the
11 manager of the rescission resolution,
12 except that in the event the manager
13 of the rescission resolution is in favor
14 in any such amendment, motion, or
15 appeal, the time in opposition thereto,
16 shall be controlled by the minority
17 leader or his designee. No amendment
18 that is not germane to the provisions
19 of a rescission resolution shall be re-
20 ceived. Such leaders, or either of
21 them, may, from the time under their
22 control on the passage of a rescission
23 resolution, allot additional time to any
24 Senator during the consideration of

1 any amendment, debatable motion, or
2 appeal.

3 (III) A motion to further limit
4 debate is not debatable. A motion to
5 recommit a rescission resolution (ex-
6 cept a motion to recommit with in-
7 structions to report back within a
8 specified number of days, not to ex-
9 ceed 3, excluding any day on which
10 the Senate is not in session) is not in
11 order. Debate on any such motion to
12 recommit shall be limited to one hour,
13 to be equally divided between, and
14 controlled by, the mover and the man-
15 ager of the concurrent resolution.

16 (IV) The conference report on
17 any rescission resolution shall be in
18 order in the Senate at any time after
19 the third day (excluding Saturdays,
20 Sundays, and legal holidays) following
21 the day on which such a conference
22 report is reported and is available to
23 Members of the Senate. A motion to
24 proceed to the consideration of the
25 conference report may be made even

1 though a previous motion to the same
2 effect has been disagreed to.

3 (V) During Senate consideration
4 of the conference report on any rescis-
5 sion resolution, debate shall be limited
6 to 2 hours, to be equally divided be-
7 tween, and controlled by, the majority
8 leader and minority leader or their
9 designees. Debate on any debatable
10 motion or appeal related to the con-
11 ference report shall be limited to 30
12 minutes, to be equally divided be-
13 tween, and controlled by, the mover
14 and the manager of the conference re-
15 port.

16 (VI) Should the conference re-
17 port be defeated, debate on any re-
18 quest for a new conference and the
19 appointment of conferees shall be lim-
20 ited to one hour, to be equally divided,
21 between, and controlled by, the man-
22 ager of the conference report and the
23 minority leader or his designee, and
24 should any motion be made to instruct
25 the conferees before the conferees are

1 named, debate on such motion shall
2 be limited to 30 minutes, to be equally
3 divided between, and controlled by,
4 the mover and the manager of the
5 conference report. Debate on any
6 amendment to any such instructions
7 shall be limited to 20 minutes, to be
8 equally divided between, and con-
9 trolled by the mover and the manager
10 of the conference report. In all cases
11 when the manager of the conference
12 report is in favor of any motion, ap-
13 peal, or amendment, the time in oppo-
14 sition shall be under the control of the
15 minority leader or his designee.

16 (VII) In any case in which there
17 are amendments in disagreement,
18 time on each amendment shall be lim-
19 ited to 30 minutes, to be equally di-
20 vided between, and controlled by, the
21 manager of the conference report and
22 the minority leader or his designee.
23 No amendment that is not germane to
24 the provisions of such amendments
25 shall be received.

1 (3) CONTINUITY OF SESSION OF CONGRESS.—
2 For the purpose of this subsection, continuity of a
3 session of the Congress shall be considered as bro-
4 ken only by an adjournment of the Congress sine
5 die.

6 **TITLE III—STRUCTURAL**
7 **REFORMS**

8 **SEC. 301. TRIBAL SOVEREIGNTY.**

9 Section 2 of the National Labor Relations Act (29
10 U.S.C. 152) is amended—

11 (1) in paragraph (2), by inserting “or any In-
12 dian tribe, or any enterprise or institution owned
13 and operated by an Indian tribe and located on its
14 Indian lands,” after “subdivision thereof,”; and

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

16 “(15) The term ‘Indian tribe’ means any Indian
17 tribe, band, nation, pueblo, or other organized group
18 or community which is recognized as eligible for the
19 special programs and services provided by the
20 United States to Indians because of their status as
21 Indians.

22 “(16) The term ‘Indian’ means any individual
23 who is a member of an Indian tribe.

24 “(17) The term ‘Indian lands’ means—

1 “(A) all lands within the limits of any In-
2 dian reservation;

3 “(B) any lands title to which is either held
4 in trust by the United States for the benefit of
5 any Indian tribe or Indian or held by any In-
6 dian tribe or Indian subject to restriction by the
7 United States against alienation; and

8 “(C) any lands in the State of Oklahoma
9 that are within the boundaries of a former res-
10 ervation (as defined by the Secretary of the In-
11 terior) of a Federally recognized Indian tribe.”.

12 **SEC. 302. LABOR ORGANIZATIONS REQUIRED TO FILE**
13 **FORM T-1 TRUST ANNUAL REPORTS.**

14 Section 201 of the Labor-Management Reporting and
15 Disclosure Act of 1959 (29 U.S.C. 431) is amended by
16 adding at the end the following:

17 “(d) FORM T-1 ANNUAL TRUST REPORT.—

18 “(1) DEFINITION OF COVERED LABOR ORGANI-
19 ZATION.—In this subsection, the term ‘covered labor
20 organization’ means a labor organization whose total
21 annual receipts equal or exceed \$250,000.

22 “(2) CONDITIONS.—Each covered labor organi-
23 zation shall file an annual report containing the in-
24 formation described in paragraph (3) for each trust
25 in which a labor organization is interested if the

1 labor organization (alone or in combination with
2 other labor organizations)—

3 “(A) has, at any time during or prior to
4 the reporting period, selected or appointed the
5 majority of the governing board of the trust in
6 office at any time during the reporting period;
7 or

8 “(B) contributes more than 50 percent of
9 the receipts of the trust during the reporting
10 period.

11 “(3) REPORT.—A report required under para-
12 graph (2) shall contain information pertaining to the
13 financial operations of the labor organization and
14 the trust, including any transactions or major re-
15 cepts or disbursements by the trust during the re-
16 porting period.”.

17 **TITLE IV—ADDITIONAL RE-**
18 **FORMS TO EXISTING LABOR**
19 **RIGHTS AND PROTECTIONS**

20 **SEC. 401. NOTICE OF RIGHTS AND PROTECTIONS; VOTER**
21 **REGISTRATION LISTS.**

22 Section 8 of the National Labor Relations Act (29
23 U.S.C. 158), as amended by section 202(e), is further
24 amended by adding at the end the following:

1 “(k)(1) The Board shall promulgate regulations re-
2 quiring each employer to post and maintain, in con-
3 spicuous places where notices to employees and applicants
4 for employment are customarily posted both physically and
5 electronically, a notice setting forth the rights and protec-
6 tions afforded to employees under this Act, which shall
7 include the right and process to rescind the authority of
8 a labor organization under section 9(e), an explanation
9 that any employee in a collective bargaining unit may be
10 exempt from the activities of the labor organization, and
11 that any fees collected by such labor organization may not
12 be used for political activities, and with respect to a State
13 or Territory in which membership in a labor organization
14 may not be a condition of employment, an employee may
15 opt out of any such fees, and with respect to a State or
16 Territory in which such membership may be a condition
17 of employment, such fees may only be used by the labor
18 organization for collective bargaining and representational
19 activities.

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

1 such employees. Such voter list shall include the names
2 of all employees in the bargaining unit and not more than
3 one additional form of personal contact information for
4 the employee (such as a telephone number, an email ad-
5 dress, or a mailing address) chosen by the employee in
6 writing. The voter list shall be provided in a searchable
7 electronic format generally approved by the Board unless
8 the employer certifies that the employer does not possess
9 the capacity to produce the list in the required form. Not
10 later than nine months after the date of enactment of the
11 Employee Rights Act, the Board shall promulgate regula-
12 tions implementing the requirements of this paragraph.

13 “(3) It shall be an unfair labor practice for an em-
14 ployer to violate any requirement under this subsection.”.

15 **SEC. 402. LABOR ORGANIZATION USE OF PERSONAL INFOR-**
16 **MATION.**

17 Section 8(b) of the National Labor Relations Act (29
18 U.S.C. 158(b)) is amended—

19 (1) in paragraph (6), by striking “; and” and
20 inserting a semicolon;

21 (2) in paragraph (7), by striking “8(b).” and
22 inserting “8(b); and”; and

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

24 “(8) to fail to protect the personal information
25 of an employee received for an organizing drive, to

1 use such information for any reason other than a
2 representation proceeding, or to use such informa-
3 tion after the conclusion of a representation pro-
4 ceeding.”.

5 **SEC. 403. NOTICES FOR LABOR ORGANIZATION CARDS DE-**
6 **CLARING PURPOSE AND DISCLOSURE OF**
7 **DUES AND FEES.**

8 Section 8 of the National Labor Relations Act (29
9 U.S.C. 158), as amended by section 401, is further
10 amended by adding at the end the following:

11 “(1)(1) Labor organization authorization cards shall
12 be accompanied by a written notice—

13 “(A) specifying that such cards will be used to
14 certify the labor organization as the exclusive bar-
15 gaining representative of the employee; and

16 “(B) clarifying the rights of the employee and
17 the total monthly dues and fees charged by the labor
18 organization.

19 “(2) A card shall not be considered valid without the
20 written notice required under paragraph (1).

21 “(3) Failure by a labor organization to comply with
22 paragraph (1) shall constitute an unfair labor practice.”.