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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To secure the rights of public employees to organize, act concertedly, and bargain collectively, which safeguard the public interest and promote the free and unobstructed flow of commerce, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To secure the rights of public employees to organize, act concertedly, and bargain collectively, which safeguard the public interest and promote the free and unobstructed flow of commerce, 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 “Public Service Free-
5 dom to Negotiate Act of 2024”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—In this Act:

1 (1) APPROPRIATE UNIT.—The term “appro-
2 priate unit” means a group of public employees or
3 a group of supervisory employees appropriate for
4 collective bargaining that share a community of in-
5 terest, as demonstrated by factors including whether
6 such group—

7 (A) has a bargaining history or history of
8 prior organization; and

9 (B) reflects the desires of the employees
10 who are seeking or proposing representation by
11 a labor organization regarding the employees to
12 be included in such bargaining unit.

13 (2) AUTHORITY.—The term “Authority” means
14 the Federal Labor Relations Authority.

15 (3) COLLECTIVE BARGAINING.—The term “col-
16 lective bargaining”, used with respect to public em-
17 ployees, supervisory employees, and public employ-
18 ers, means the performance of the mutual obligation
19 of the representative of a public employer and the
20 exclusive representative of an appropriate unit of
21 public and supervisory employees of the employer to
22 meet at reasonable times and to consult and bargain
23 in a good-faith effort to reach agreement with re-
24 spect to wages, hours, and other terms and condi-
25 tions of employment affecting such employees and to

1 execute a written document incorporating any collec-
2 tive bargaining agreement reached, but the obliga-
3 tion referred to in this paragraph does not compel
4 either party to agree to a proposal or to make a con-
5 cession (as described in section 8(d) of the National
6 Labor Relations Act (29 U.S.C. 158(d))).

7 (4) CONFIDENTIAL EMPLOYEE.—The term
8 “confidential employee” means an employee of a
9 public employer who acts in a confidential capacity
10 with respect to an individual who formulates or ef-
11 fectuates management policies in the field of labor-
12 management relations.

13 (5) COVERED PERSON.—The term “covered
14 person” means an individual or a labor organization.

15 (6) EMERGENCY SERVICES EMPLOYEE.—The
16 term “emergency services employee” means—

17 (A) a public employee providing out-of-hos-
18 pital emergency medical care, including an
19 emergency medical technician, paramedic, or
20 first responder; or

21 (B) a public employee providing other serv-
22 ices in response to emergencies that have the
23 potential to cause death or serious bodily in-
24 jury, including an employee in fire protection
25 activities (as defined in section 3(y) of the Fair

1 Labor Standards Act of 1938 (29 U.S.C.
2 203(y)).

3 (7) LABOR ORGANIZATION.—The term “labor
4 organization” means any organization of any kind
5 that is not under the control directly or indirectly by
6 a public employer in which such employees partici-
7 pate and which exists for the purpose, in whole or
8 in part, of dealing with public employers concerning
9 grievances, labor disputes, wages, rates of pay, hours
10 of employment, or conditions of work.

11 (8) LAW.—The term “law”, used with respect
12 to a State or a political subdivision thereof, includes
13 the application of the laws of such State or such po-
14 litical subdivision, including any regulations or ordi-
15 nances issued by such State or such political subdivi-
16 sion.

17 (9) LAW ENFORCEMENT OFFICER.—The term
18 “law enforcement officer” has the meaning given
19 such term in section 1204 of the Omnibus Crime
20 Control and Safe Streets Act of 1968 (34 U.S.C.
21 10284).

22 (10) MANAGEMENT EMPLOYEE.—The term
23 “management employee” means an individual em-
24 ployed by a public employer in a position the duties
25 and responsibilities of which require the individual to

1 formulate or determine the policies of the public em-
2 ployer.

3 (11) PUBLIC EMPLOYEE.—The term “public
4 employee”—

5 (A) means an individual, employed by a
6 public employer, who in any workweek is en-
7 gaged in commerce or is employed in an enter-
8 prise engaged in commerce;

9 (B) includes an individual who is tempo-
10 rarily transferred to a supervisory or manage-
11 ment position; and

12 (C) does not include—

13 (i) a supervisory employee;

14 (ii) a management employee;

15 (iii) a confidential employee; or

16 (iv) an elected official.

17 (12) PUBLIC EMPLOYER.—The term “public
18 employer” means an entity that—

19 (A) employs not less than 1 individual;

20 (B) is engaged in commerce; and

21 (C) is either—

22 (i) a State or the political subdivision
23 of a State; or

24 (ii) any authority, agency, school dis-
25 trict, board or other entity controlled and

1 operated by an entity described in clause
2 (i).

3 (13) SUBSTANTIALLY PROVIDES.—The term
4 “substantially provides”, used with respect to the
5 rights and procedures described in section 3(b),
6 means providing rights and procedures that are
7 equivalent to or greater than each of the rights and
8 procedures described in such section.

9 (14) SUPERVISORY EMPLOYEE.—The term “su-
10 pervisory employee” means an individual, employed
11 by a public employer, who in any workweek is en-
12 gaged in commerce or is employed in an enterprise
13 engaged in commerce and who—

14 (A) has the authority in the interest of the
15 employer, if the exercise of such authority is
16 not merely routine or clerical in nature but re-
17 quires the consistent exercise of independent
18 judgment, to—

19 (i) hire, promote, reward, transfer,
20 furlough, lay off, recall, suspend, dis-
21 cipline, or remove public employees;

22 (ii) adjust the grievances of public
23 employees; or

24 (iii) effectively recommend any action
25 described in clause (i) or (ii); and

1 (B) devotes a majority of time at work to
2 exercising the authority under subparagraph
3 (A).

4 (b) FAIR LABOR STANDARDS ACT OF 1938
5 TERMS.—The terms “commerce”, “employ”, “enterprise
6 engaged in commerce”, and “State” have the meanings
7 given such terms in section 3 of the Fair Labor Standards
8 Act of 1938 (29 U.S.C. 203).

9 (c) STATE LAW.—If any term defined in this section
10 has a substantially equivalent meaning to a term (or a
11 substantially equivalent term) under applicable State law
12 on the date of the enactment of this Act, such term (or
13 substantially equivalent term) and meaning under such
14 applicable State law shall apply with respect to the term
15 defined under this Act with respect to such State.

16 **SEC. 3. FEDERAL MINIMUM STANDARDS.**

17 (a) DETERMINATION.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this Act (except as
20 provided in paragraph (4)(C)), the Authority shall
21 make a determination for each State as to whether
22 the laws of such State substantially provide for each
23 of the rights and procedures under subsection (b)
24 and not later than 30 days after the enactment of

1 this Act, the Authority shall establish procedures for
2 the implementation of this section.

3 (2) CONSIDERATION OF ADDITIONAL OPIN-
4 IONS.—In making the determination under para-
5 graph (1), the Authority shall consider the opinions
6 of affected public employees, supervisory employees,
7 labor organizations, and public employers. In the
8 case where the Authority is notified by an affected
9 public employer and labor organization that both
10 parties agree that the law applicable to such em-
11 ployer and labor organization substantially provides
12 for the rights and procedures described in subsection
13 (b), the Authority shall give such agreement weight
14 to the maximum extent practicable in making the
15 Authority’s determination under paragraph (1).

16 (3) LIMITED CRITERIA.—In making the deter-
17 mination described in paragraph (1), the Authority
18 may only consider the criteria described in sub-
19 section (b).

20 (4) SUBSEQUENT DETERMINATIONS.—

21 (A) IN GENERAL.—A determination made
22 pursuant to paragraph (1) shall remain in ef-
23 fect unless and until the Authority issues a sub-
24 sequent determination, in accordance with the
25 procedures set forth in subparagraph (B).

1 (B) REQUEST.—A public employee, super-
2 visory employee, public employer, or a labor or-
3 ganization may submit to the Authority a writ-
4 ten request for a subsequent determination with
5 respect to whether a material change of State
6 law has occurred.

7 (C) ISSUANCE.—If satisfied that a mate-
8 rial change in State law has occurred, the Au-
9 thority shall issue a subsequent determination
10 described under paragraph (1) not later than
11 30 days after receipt of such request.

12 (5) JUDICIAL REVIEW.—Any covered person or
13 public employer aggrieved by a determination of the
14 Authority under this paragraph (1) may, during the
15 60-day period beginning on the date on which the
16 determination was made, petition any United States
17 Court of Appeals in the circuit in which the covered
18 person or public employer resides or transacts busi-
19 ness or in the Court of Appeals for the District of
20 Columbia Circuit, for judicial review. In any judicial
21 review of a determination made by the Authority de-
22 scribed in paragraph (1), the procedures contained
23 in subsections (c) and (d) of section 7123 of title 5,
24 United States Code, shall be followed.

1 (6) RULE OF CONSTRUCTION.—In making the
2 determination described in paragraph (1), the Au-
3 thority shall, as relevant, consider any requirement
4 imposed by a consent decree entered into by the De-
5 partment of Justice before, on, or after the date of
6 enactment of this Act as substantially providing for
7 the rights and procedures under subsection (b).

8 (b) FEDERAL MINIMUM STANDARD.—The collective
9 bargaining rights and procedures under this subsection
10 are as follows:

11 (1) A right of public employees and supervisory
12 employees—

13 (A) to self-organization;

14 (B) to form, join, or assist a labor organi-
15 zation or to refrain from any such activity;

16 (C) to bargain collectively through rep-
17 resentatives of their own choosing; and

18 (D) to engage in other concerted activities
19 for the purpose of collective bargaining or other
20 mutual aid (including the filing of joint, class,
21 or collective legal claims) or protection.

22 (2) A requirement for public employers to—

23 (A) recognize the labor organization of its
24 public employees and supervisory employees
25 (freely chosen in an election by a majority of

1 such employees voting in the appropriate unit
2 or chosen by voluntary recognition if that meth-
3 od is permitted under State law) without re-
4 quiring an election to recertify or decertify a
5 labor organization that is already recognized as
6 the representative of such employees unless not
7 less than 30 percent of such employees in the
8 bargaining unit freely sign a petition to decer-
9 tify such labor organization—

10 (i) not earlier than the date that is 1
11 year after the date of the election (or after
12 a voluntary recognition if permitted under
13 State law) of the representative;

14 (ii) not earlier than 1 year after the
15 expiration of a valid collective bargaining
16 agreement;

17 (iii) not during the term of a valid col-
18 lective bargaining agreement (except as
19 permissible under clause (iv)); or

20 (iv) during the 30-day period begin-
21 ning on the date that is 90 days before the
22 end of a valid existing contract;

23 (B) collectively bargain with such recog-
24 nized labor organization; and

1 (C) commit any agreements with such rec-
2 ognized labor organization to writing in a con-
3 tract or memorandum of understanding.

4 (3) An interest impasse resolution mechanism,
5 such as fact-finding, mediation, arbitration, or com-
6 parable procedures that culminate in binding resolu-
7 tion.

8 (4) Payroll deduction of labor organization fees
9 for any duly chosen representative of a public em-
10 ployee or supervisory employee pursuant to the
11 terms of an agreement between the labor organiza-
12 tion and such public or supervisory employee, which
13 shall remain in effect until revoked by such employee
14 in accordance with its terms.

15 (5) The prohibition of practices that interfere
16 with, restrain, or coerce public or supervisory em-
17 ployees in the exercise of rights guaranteed in para-
18 graph (1) or regulations issued thereunder.

19 (6) The enforcement of all relevant rights and
20 procedures provided by State law and enumerated in
21 this subsection.

22 (7) The enforcement of all rights and proce-
23 dures provided by any written contract or memo-
24 randum of understanding between a labor organiza-
25 tion and a public employer, through—

1 (A) a State agency, if the State so chooses;

2 (B) at the election of an aggrieved party,
3 the State courts, if so permitted under State
4 law; or

5 (C) a grievance resolution procedure culmi-
6 nating in binding arbitration negotiated in such
7 contract or memorandum.

8 (c) COMPLIANCE WITH RIGHTS AND PROCE-
9 DURES.—If the Authority determines under subsection
10 (a)(1) that the laws of a State substantially provide each
11 of the rights and procedures described in subsection (b),
12 then subsection (d) shall not apply and this Act shall not
13 preempt the laws of such State.

14 (d) FAILURE TO SUBSTANTIALLY PROVIDE.—

15 (1) IN GENERAL.—If the Authority determines
16 under subsection (a)(1) that the laws of a State do
17 not substantially provide for each of the rights and
18 procedures described in subsection (b), then such
19 State shall be subject to the rules and activities of
20 the Authority under section 4 beginning on the later
21 of—

22 (A) the date that is 2 years after the date
23 of enactment of this Act;

24 (B) the date that is the last day of the
25 first regular session of the legislature of the

1 State that begins after the date of the enact-
2 ment of this Act; or

3 (C) in the case of a State receiving a sub-
4 sequent determination described under sub-
5 section (a)(4), the date that is the last day of
6 the first regular session of the legislature of the
7 State that begins after the date the Authority
8 made the determination.

9 (2) PARTIAL FAILURE.—If the Authority deter-
10 mines under subsection (a)(1) that a State does not
11 substantially provide for each of the rights and pro-
12 cedures described in subsection (b) because the
13 State fails to substantially provide for all of such
14 rights and procedures with respect to any public or
15 supervisory employees, the Authority shall identify—

16 (A) the categories of public or supervisory
17 employees of such State that shall be subject to
18 the rules and activities of the Authority under
19 section 4, pursuant to section 7(b)(4), begin-
20 ning on the applicable date under paragraph
21 (1);

22 (B) the categories of public employees and
23 supervisory employees of such State that shall
24 not be subject to the rules and activities of the
25 Authority under section 4;

1 (C) the categories of rights and procedures
2 described in subsection (b) for which the State
3 does not substantially provide for certain public
4 employees and supervisory employees; and

5 (D) the categories of rights and procedures
6 described in such subsection for which the State
7 substantially provides for all employees.

8 **SEC. 4. MINIMUM STANDARDS ADMINISTERED BY THE FED-**
9 **ERAL LABOR RELATIONS AUTHORITY.**

10 (a) IN GENERAL.—Not later than 1 year after the
11 date of enactment of this Act, the Authority shall issue
12 rules and take such actions that the Authority determines
13 appropriate to establish and administer collective bar-
14 gaining rights and procedures that substantially provide
15 for the minimum standards described in section 3(b) for
16 States described in section 3(d).

17 (b) ROLE OF THE FEDERAL LABOR RELATIONS AU-
18 THORITY.—

19 (1) IN GENERAL.—In carrying out subsection
20 (a), the Authority shall—

21 (A) provide for the rights and procedures
22 described in paragraphs (1) through (5) of sec-
23 tion 3(b);

24 (B) supervise or conduct elections to deter-
25 mine whether a labor organization has been

1 chosen as an exclusive representative by a ma-
2 jority of the public employees and supervisory
3 employees voting in such election in an appro-
4 priate unit;

5 (C) determine the appropriateness of units
6 for labor organization representation;

7 (D) conduct hearings and resolve com-
8 plaints concerning violations of this Act or any
9 rule or order issued by the Authority pursuant
10 to this Act;

11 (E) resolve exceptions to the awards of ar-
12 bitrators that violate or exceed the scope of
13 public policy of this Act; and

14 (F) take such other actions as are nec-
15 essary and appropriate to effectively administer
16 this Act, including issuing subpoenas requiring
17 the attendance and testimony of witnesses and
18 the production of documentary or other evi-
19 dence from any place in the United States, ad-
20 ministering oaths, taking or ordering the taking
21 of depositions, ordering responses to written in-
22 terrogatories, and receiving and examining wit-
23 nesses.

24 (2) RULE OF CONSTRUCTION.—In providing for
25 the rights and procedures under paragraph (1)(A),

1 nothing in this Act shall be construed as super-
2 seding, or creating or imposing any requirement in
3 conflict with, any consent decree entered into by the
4 Department of Justice before, on, or after the date
5 of enactment of this Act.

6 (c) ENFORCEMENT.—

7 (1) IN GENERAL.—The Authority may issue an
8 order directing compliance by any covered person or
9 public employer found to be in violation of this sec-
10 tion, and may petition any United States Court of
11 Appeals with jurisdiction over the parties, or the
12 United States Court of Appeals for the District of
13 Columbia Circuit, to enforce any such final orders
14 issued pursuant to this section or pursuant to rules
15 issued under this section, and for appropriate tem-
16 porary relief or a restraining order. Any covered per-
17 son or public employer aggrieved by an order issued
18 by the Authority under this section may, during the
19 60-day period beginning on the date on which the
20 order was issued petition any United States Court of
21 Appeals in the circuit which the covered person or
22 public employer resides or transacts business or in
23 the Court of Appeals for the District of Columbia
24 Circuit, for judicial review. Any petition or appeal
25 under this section shall be conducted in accordance

1 with subsections (c) and (d) of section 7123 of title
2 5, United States Code.

3 (2) PRIVATE RIGHT OF ACTION.—

4 (A) FILING A CIVIL ACTION.—Unless the
5 Authority has filed an order of enforcement as
6 provided in paragraph (1), any party may, after
7 the 180-day period following the filing of a
8 charge with the Authority pursuant to the rules
9 of the Authority under this section, file a civil
10 action against any named State administrator
11 in an appropriate district court of the United
12 States to enjoin such administrator to enforce
13 compliance—

14 (i) with this Act or the rules issued by
15 the Authority under this section; or

16 (ii) to enforce compliance with any
17 order issued by the Authority.

18 (B) TIMING.—Any civil action brought
19 under subparagraph (A) shall be brought not
20 later than the earlier of—

21 (i) the date that is 180 days after the
22 expiration of the 180-day period in sub-
23 paragraph (A); or

1 (ii) the date that is 180 days after the
2 date that the Authority dismisses a charge
3 described in subparagraph (A).

4 (C) NOTICE.—The party shall serve notice
5 of the Federal lawsuit to the Authority.

6 (D) JURISDICTION AND ATTORNEYS'
7 FEES.—A district court shall have jurisdiction
8 over the civil action filed under subparagraph
9 (A) without regard to the amount in con-
10 troversy or the citizenship of the parties and
11 may award reasonable attorneys' fees.

12 **SEC. 5. LOCKOUTS AND EMPLOYEE STRIKES PROHIBITED**
13 **WHEN EMERGENCY OR PUBLIC SAFETY SERV-**
14 **ICES IMPERILED.**

15 (a) IN GENERAL.—Subject to subsection (b), any em-
16 ployer, emergency services employee, or law enforcement
17 officer, subject to the rules and activities of the Authority
18 under section 4, may not engage in a lockout, strike, or
19 any other organized job action of which a reasonably prob-
20 able result is a measurable disruption of the delivery of
21 emergency or public safety services. No labor organization
22 may cause or attempt to cause a violation of this sub-
23 section.

24 (b) NO PREEMPTION.—Nothing in this section shall
25 be construed to preempt any law of any State or political

1 subdivision of any State with respect to strikes by emer-
2 gency services employees or law enforcement officers.

3 **SEC. 6. EXISTING COLLECTIVE BARGAINING UNITS AND**
4 **AGREEMENTS.**

5 The enactment of this Act shall not invalidate any
6 certification, recognition, result of an election, collective
7 bargaining agreement, or memorandum of understanding
8 that—

9 (1) has been issued, approved, or ratified by
10 any public employee relations board or commission,
11 or by any State or political subdivision or an agent
12 or management official of such State or political
13 subdivision; and

14 (2) is in effect on the day before the date of en-
15 actment of this Act.

16 **SEC. 7. EXCEPTIONS.**

17 (a) IN GENERAL.—The Authority shall not make a
18 determination under section 3(a)(1) that the laws of a
19 State do not substantially provide for the rights and proce-
20 dures under section 3(b) on the basis that relevant State
21 laws—

22 (1) permit a public or supervisory employee to
23 appear on the employee's own behalf with respect to
24 the relationship of the public employee with the pub-
25 lic employer involved;

1 (2) do not cover public or supervisory employees
2 of the State militia or national guard;

3 (3) do not apply to a political subdivision of a
4 State if—

5 (A) such political subdivision has a popu-
6 lation of fewer than 5,000 people or employs
7 fewer than 25 public employees; and

8 (B) the State in which such political sub-
9 division is located notifies the Authority that
10 such subdivision is exempt from such laws be-
11 fore the date on which the Authority makes the
12 determination; or

13 (4) do not require bargaining with respect to
14 pension or retirement income benefits.

15 (b) COMPLIANCE.—

16 (1) ACTIONS OF STATES.—Nothing in this Act
17 shall be construed to require a State to rescind or
18 preempt the laws of any political subdivision of the
19 State if such laws substantially provide for the
20 rights and procedures described in section 3(b).

21 (2) ACTIONS OF THE DISTRICT OF COLUM-
22 BIA.—Nothing in this Act or in the rules issued
23 under this Act shall be construed—

24 (A) to require the District of Columbia to
25 rescind—

1 (i) section 501 of the District of Co-
2 lumbia Government Comprehensive Merit
3 Personnel Act of 1978 (1–605.01, D.C.
4 Official Code), establishing the Public Em-
5 ployee Relations Board of the District of
6 Columbia; or

7 (ii) section 502 of such Act (1–
8 605.02, D.C. Official Code), establishing
9 the power of the Board;

10 (B) to preempt the laws described in sub-
11 paragraph (A); or

12 (C) to limit or alter the powers of the gov-
13 ernment of the District of Columbia pursuant
14 to the District of Columbia Home Rule Act
15 (Public Law 93–198; 87 Stat. 774).

16 (3) ACTIONS OF THE AUTHORITY.—Nothing in
17 this Act shall be construed to preempt—

18 (A) the laws of any State or political sub-
19 division of a State that substantially provide for
20 the rights and procedures described in section
21 3(b);

22 (B) the laws of any State or political sub-
23 division of a State that substantially provide for
24 the rights and procedures described in section
25 3(b), solely because such laws provide that a

1 contract or memorandum of understanding be-
2 tween a public employer and a labor organiza-
3 tion must be presented to a legislative body as
4 part of the process for approving such contract
5 or memorandum of understanding; or

6 (C) the laws of any State or political sub-
7 division of a State that permit or require a pub-
8 lic employer to recognize a labor organization
9 on the basis of signed authorizations executed
10 by employees designating the labor organization
11 as their representative.

12 (4) LIMITED ENFORCEMENT POWER.—In the
13 case of a law described in section 3(d)(2), the Au-
14 thority shall only exercise the authority under sec-
15 tion 4 with respect to the categories of public or su-
16 pervisory employees for whom State law does not
17 substantially provide the rights and procedures de-
18 scribed in section 3(b).

19 **SEC. 8. SEVERABILITY.**

20 If any provision of this Act or the application thereof
21 to any person or circumstance is held invalid, the remain-
22 der of this Act, or the application of that provision to per-
23 sons or circumstances other than those as to which it is
24 held invalid, is not affected thereby.

1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums

3 as may be necessary to carry out this Act.