

119TH CONGRESS
1ST SESSION

S. _____

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 SENATE OF THE UNITED STATES

Ms. HIRONO (for herself, Ms. ALSOBROOKS, Ms. BALDWIN, Mr. BLUMENTHAL, Ms. BLUNT ROCHESTER, Mr. BOOKER, Ms. CANTWELL, Mr. COONS, Ms. DUCKWORTH, Mr. DURBIN, Mr. FETTERMAN, Mr. GALLEGO, Mrs. GILLIBRAND, Mr. HEINRICH, Mr. KAINE, Mr. KIM, Ms. KLOBUCHAR, Mr. LUJÁN, Mr. MARKEY, Mr. MERKLEY, Mr. MURPHY, Mrs. MURRAY, Mr. PADILLA, Mr. PETERS, Mr. REED, Ms. ROSEN, Mr. SANDERS, Ms. SLOTKIN, Mr. SCHATZ, Mr. SCHIFF, Mr. SCHUMER, Ms. SMITH, Mr. VAN HOLLEN, Ms. WARREN, Mr. WELCH, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Public Service Free-
3 dom to Negotiate Act of 2025”.

4 **SEC. 2. DEFINITIONS.**

5 (a) IN GENERAL.—In this Act:

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

12 (A) has a bargaining history or history of
13 prior organization; and

14 (B) reflects the desires of the employees
15 who are seeking or proposing representation by
16 a labor organization regarding the employees to
17 be included in such bargaining unit.

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

20 (3) COLLECTIVE BARGAINING.—The term “col-
21 lective bargaining”, used with respect to public em-
22 ployees, supervisory employees, and public employ-
23 ers, means the performance of the mutual obligation
24 of the representative of a public employer and the
25 exclusive representative of an appropriate unit of
26 public and supervisory employees of the employer to

1 meet at reasonable times and to consult and bargain
2 in a good-faith effort to reach agreement with re-
3 spect to wages, hours, and other terms and condi-
4 tions of employment affecting such employees and to
5 execute a written document incorporating any collec-
6 tive bargaining agreement reached, but the obliga-
7 tion referred to in this paragraph does not compel
8 either party to agree to a proposal or to make a con-
9 cession (as described in section 8(d) of the National
10 Labor Relations Act (29 U.S.C. 158(d))).

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

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

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

21 (A) a public employee providing out-of-hos-
22 pital emergency medical care, including an
23 emergency medical technician, paramedic, or
24 first responder; or

1 (B) a public employee providing other serv-
2 ices in response to emergencies that have the
3 potential to cause death or serious bodily in-
4 jury, including an employee in fire protection
5 activities (as defined in section 3(y) of the Fair
6 Labor Standards Act of 1938 (29 U.S.C.
7 203(y))).

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

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

22 (9) LAW ENFORCEMENT OFFICER.—The term
23 “law enforcement officer” has the meaning given
24 such term in section 1204 of the Omnibus Crime

1 Control and Safe Streets Act of 1968 (34 U.S.C.
2 10284).

3 (10) MANAGEMENT EMPLOYEE.—The term
4 “management employee” means an individual em-
5 ployed by a public employer in a position the duties
6 and responsibilities of which require the individual to
7 formulate or determine the policies of the public em-
8 ployer.

9 (11) PUBLIC EMPLOYEE.—The term “public
10 employee”—

11 (A) means an individual, employed by a
12 public employer, who in any workweek is en-
13 gaged in commerce or is employed in an enter-
14 prise engaged in commerce;

15 (B) includes an individual who is tempo-
16 rarily transferred to a supervisory or manage-
17 ment position; and

18 (C) does not include—

19 (i) a supervisory employee;

20 (ii) a management employee;

21 (iii) a confidential employee; or

22 (iv) an elected official.

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

25 (A) employs not less than 1 individual;

1 (B) is engaged in commerce; and

2 (C) is either—

3 (i) a State or the political subdivision
4 of a State; or

5 (ii) any authority, agency, school dis-
6 trict, board or other entity controlled and
7 operated by an entity described in clause
8 (i).

9 (13) SUBSTANTIALLY PROVIDES.—The term
10 “substantially provides”, used with respect to the
11 rights and procedures described in section 3(b),
12 means providing rights and procedures that are
13 equivalent to or greater than each of the rights and
14 procedures described in such section.

15 (14) SUPERVISORY EMPLOYEE.—The term “su-
16 pervisory employee” means an individual, employed
17 by a public employer, who in any workweek is en-
18 gaged in commerce or is employed in an enterprise
19 engaged in commerce and who—

20 (A) has the authority in the interest of the
21 employer, if the exercise of such authority is
22 not merely routine or clerical in nature but re-
23 quires the consistent exercise of independent
24 judgment, to—

1 (i) hire, promote, reward, transfer,
2 furlough, lay off, recall, suspend, dis-
3 cipline, or remove public employees;

4 (ii) adjust the grievances of public
5 employees; or

6 (iii) effectively recommend any action
7 described in clause (i) or (ii); and

8 (B) devotes a majority of time at work to
9 exercising the authority under subparagraph
10 (A).

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

16 (c) STATE LAW.—If any term defined in this section
17 has a substantially equivalent meaning to a term (or a
18 substantially equivalent term) under applicable State law
19 on the date of the enactment of this Act, such term (or
20 substantially equivalent term) and meaning under such
21 applicable State law shall apply with respect to the term
22 defined under this Act with respect to such State.

23 **SEC. 3. FEDERAL MINIMUM STANDARDS.**

24 (a) DETERMINATION.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act (except as
3 provided in paragraph (4)(C)), the Authority shall
4 make a determination for each State as to whether
5 the laws of such State substantially provide for each
6 of the rights and procedures under subsection (b)
7 and not later than 30 days after the enactment of
8 this Act, the Authority shall establish procedures for
9 the implementation of this section.

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

23 (3) LIMITED CRITERIA.—In making the deter-
24 mination described in paragraph (1), the Authority

1 may only consider the criteria described in sub-
2 section (b).

3 (4) SUBSEQUENT DETERMINATIONS.—

4 (A) IN GENERAL.—A determination made
5 pursuant to paragraph (1) shall remain in ef-
6 fect unless and until the Authority issues a sub-
7 sequent determination, in accordance with the
8 procedures set forth in subparagraph (B).

9 (B) REQUEST.—A public employee, super-
10 visory employee, public employer, or a labor or-
11 ganization may submit to the Authority a writ-
12 ten request for a subsequent determination with
13 respect to whether a material change of State
14 law has occurred.

15 (C) ISSUANCE.—If satisfied that a mate-
16 rial change in State law has occurred, the Au-
17 thority shall issue a subsequent determination
18 described under paragraph (1) not later than
19 30 days after receipt of such request.

20 (5) JUDICIAL REVIEW.—Any covered person or
21 public employer aggrieved by a determination of the
22 Authority under this paragraph (1) may, during the
23 60-day period beginning on the date on which the
24 determination was made, petition any United States
25 Court of Appeals in the circuit in which the covered

1 person or public employer resides or transacts busi-
2 ness or in the Court of Appeals for the District of
3 Columbia Circuit, for judicial review. In any judicial
4 review of a determination made by the Authority de-
5 scribed in paragraph (1), the procedures contained
6 in subsections (c) and (d) of section 7123 of title 5,
7 United States Code, shall be followed.

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

15 (b) FEDERAL MINIMUM STANDARD.—The collective
16 bargaining rights and procedures under this subsection
17 are as follows:

18 (1) A right of public employees and supervisory
19 employees—

20 (A) to self-organization;

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

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

1 (D) to engage in other concerted activities
2 for the purpose of collective bargaining or other
3 mutual aid (including the filing of joint, class,
4 or collective legal claims) or protection.

5 (2) A requirement for public employers to—

6 (A) recognize the labor organization of its
7 public employees and supervisory employees
8 (freely chosen in an election by a majority of
9 such employees voting in the appropriate unit
10 or chosen by voluntary recognition if that meth-
11 od is permitted under State law) without re-
12 quiring an election to recertify or decertify a
13 labor organization that is already recognized as
14 the representative of such employees unless not
15 less than 30 percent of such employees in the
16 bargaining unit freely sign a petition to decer-
17 tify such labor organization—

18 (i) not earlier than the date that is 1
19 year after the date of the election (or after
20 a voluntary recognition if permitted under
21 State law) of the representative;

22 (ii) not earlier than 1 year after the
23 expiration of a valid collective bargaining
24 agreement;

1 (iii) not during the term of a valid col-
 2 lective bargaining agreement (except as
 3 permissible under clause (iv)); or

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

7 (B) collectively bargain with such recog-
 8 nized labor organization; and

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

12 (3) An interest impasse resolution mechanism,
 13 such as fact-finding, mediation, arbitration, or com-
 14 parable procedures that culminate in binding resolu-
 15 tion.

16 (4) Payroll deduction of labor organization fees
 17 for any duly chosen representative of a public em-
 18 ployee or supervisory employee pursuant to the
 19 terms of an agreement between the labor organiza-
 20 tion and such public or supervisory employee, which
 21 shall remain in effect until revoked by such employee
 22 in accordance with its terms.

23 (5) The prohibition of practices that interfere
 24 with, restrain, or coerce public or supervisory em-

1 employees in the exercise of rights guaranteed in para-
2 graph (1) or regulations issued thereunder.

3 (6) The enforcement of all relevant rights and
4 procedures provided by State law and enumerated in
5 this subsection.

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

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

11 (B) at the election of an aggrieved party,
12 the State courts, if so permitted under State
13 law; or

14 (C) a grievance resolution procedure culmi-
15 nating in binding arbitration negotiated in such
16 contract or memorandum.

17 (c) COMPLIANCE WITH RIGHTS AND PROCE-
18 DURES.—If the Authority determines under subsection
19 (a)(1) that the laws of a State substantially provide each
20 of the rights and procedures described in subsection (b),
21 then subsection (d) shall not apply and this Act shall not
22 preempt the laws of such State.

23 (d) FAILURE TO SUBSTANTIALLY PROVIDE.—

24 (1) IN GENERAL.—If the Authority determines
25 under subsection (a)(1) that the laws of a State do

1 not substantially provide for each of the rights and
2 procedures described in subsection (b), then such
3 State shall be subject to the rules and activities of
4 the Authority under section 4 beginning on the later
5 of—

6 (A) the date that is 2 years after the date
7 of enactment of this Act;

8 (B) the date that is the last day of the
9 first regular session of the legislature of the
10 State that begins after the date of the enact-
11 ment of this Act; or

12 (C) in the case of a State receiving a sub-
13 sequent determination described under sub-
14 section (a)(4), the date that is the last day of
15 the first regular session of the legislature of the
16 State that begins after the date the Authority
17 made the determination.

18 (2) PARTIAL FAILURE.—If the Authority deter-
19 mines under subsection (a)(1) that a State does not
20 substantially provide for each of the rights and pro-
21 cedures described in subsection (b) because the
22 State fails to substantially provide for all of such
23 rights and procedures with respect to any public or
24 supervisory employees, the Authority shall identify—

1 (A) the categories of public or supervisory
2 employees of such State that shall be subject to
3 the rules and activities of the Authority under
4 section 4, pursuant to section 7(b)(4), begin-
5 ning on the applicable date under paragraph
6 (1);

7 (B) the categories of public employees and
8 supervisory employees of such State that shall
9 not be subject to the rules and activities of the
10 Authority under section 4;

11 (C) the categories of rights and procedures
12 described in subsection (b) for which the State
13 does not substantially provide for certain public
14 employees and supervisory employees; and

15 (D) the categories of rights and procedures
16 described in such subsection for which the State
17 substantially provides for all employees.

18 **SEC. 4. MINIMUM STANDARDS ADMINISTERED BY THE FED-**

19 **ERAL LABOR RELATIONS AUTHORITY.**

20 (a) IN GENERAL.—Not later than 1 year after the
21 date of enactment of this Act, the Authority shall issue
22 rules and take such actions that the Authority determines
23 appropriate to establish and administer collective bar-
24 gaining rights and procedures that substantially provide

1 for the minimum standards described in section 3(b) for
2 States described in section 3(d).

3 (b) ROLE OF THE FEDERAL LABOR RELATIONS AU-
4 THORITY.—

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

7 (A) provide for the rights and procedures
8 described in paragraphs (1) through (5) of sec-
9 tion 3(b);

10 (B) supervise or conduct elections to deter-
11 mine whether a labor organization has been
12 chosen as an exclusive representative by a ma-
13 jority of the public employees and supervisory
14 employees voting in such election in an appro-
15 priate unit;

16 (C) determine the appropriateness of units
17 for labor organization representation;

18 (D) conduct hearings and resolve com-
19 plaints concerning violations of this Act or any
20 rule or order issued by the Authority pursuant
21 to this Act;

22 (E) resolve exceptions to the awards of ar-
23 bitrators that violate or exceed the scope of
24 public policy of this Act; and

1 (F) take such other actions as are nec-
2 essary and appropriate to effectively administer
3 this Act, including issuing subpoenas requiring
4 the attendance and testimony of witnesses and
5 the production of documentary or other evi-
6 dence from any place in the United States, ad-
7 ministering oaths, taking or ordering the taking
8 of depositions, ordering responses to written in-
9 terrogatories, and receiving and examining wit-
10 nesses.

11 (2) RULE OF CONSTRUCTION.—In providing for
12 the rights and procedures under paragraph (1)(A),
13 nothing in this Act shall be construed as super-
14 seding, or creating or imposing any requirement in
15 conflict with, any consent decree entered into by the
16 Department of Justice before, on, or after the date
17 of enactment of this Act.

18 (c) ENFORCEMENT.—

19 (1) IN GENERAL.—The Authority may issue an
20 order directing compliance by any covered person or
21 public employer found to be in violation of this sec-
22 tion, and may petition any United States Court of
23 Appeals with jurisdiction over the parties, or the
24 United States Court of Appeals for the District of
25 Columbia Circuit, to enforce any such final orders

1 issued pursuant to this section or pursuant to rules
2 issued under this section, and for appropriate tem-
3 porary relief or a restraining order. Any covered per-
4 son or public employer aggrieved by an order issued
5 by the Authority under this section may, during the
6 60-day period beginning on the date on which the
7 order was issued petition any United States Court of
8 Appeals in the circuit which the covered person or
9 public employer resides or transacts business or in
10 the Court of Appeals for the District of Columbia
11 Circuit, for judicial review. Any petition or appeal
12 under this section shall be conducted in accordance
13 with subsections (c) and (d) of section 7123 of title
14 5, United States Code.

15 (2) PRIVATE RIGHT OF ACTION.—

16 (A) FILING A CIVIL ACTION.—Unless the
17 Authority has filed an order of enforcement as
18 provided in paragraph (1), any party may, after
19 the 180-day period following the filing of a
20 charge with the Authority pursuant to the rules
21 of the Authority under this section, file a civil
22 action against any named State administrator
23 in an appropriate district court of the United
24 States to enjoin such administrator to enforce
25 compliance—

1 (i) with this Act or the rules issued by
2 the Authority under this section; or

3 (ii) to enforce compliance with any
4 order issued by the Authority.

5 (B) TIMING.—Any civil action brought
6 under subparagraph (A) shall be brought not
7 later than the earlier of—

8 (i) the date that is 180 days after the
9 expiration of the 180-day period in sub-
10 paragraph (A); or

11 (ii) the date that is 180 days after the
12 date that the Authority dismisses a charge
13 described in subparagraph (A).

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

16 (D) JURISDICTION AND ATTORNEYS'
17 FEES.—A district court shall have jurisdiction
18 over the civil action filed under subparagraph
19 (A) without regard to the amount in con-
20 troversy or the citizenship of the parties and
21 may award reasonable attorneys' fees.

1 **SEC. 5. LOCKOUTS AND EMPLOYEE STRIKES PROHIBITED**
2 **WHEN EMERGENCY OR PUBLIC SAFETY SERV-**
3 **ICES IMPERILED.**

4 (a) IN GENERAL.—Subject to subsection (b), any em-
5 ployer, emergency services employee, or law enforcement
6 officer, subject to the rules and activities of the Authority
7 under section 4, may not engage in a lockout, strike, or
8 any other organized job action of which a reasonably prob-
9 able result is a measurable disruption of the delivery of
10 emergency or public safety services. No labor organization
11 may cause or attempt to cause a violation of this sub-
12 section.

13 (b) NO PREEMPTION.—Nothing in this section shall
14 be construed to preempt any law of any State or political
15 subdivision of any State with respect to strikes by emer-
16 gency services employees or law enforcement officers.

17 **SEC. 6. EXISTING COLLECTIVE BARGAINING UNITS AND**
18 **AGREEMENTS.**

19 The enactment of this Act shall not invalidate any
20 certification, recognition, result of an election, collective
21 bargaining agreement, or memorandum of understanding
22 that—

23 (1) has been issued, approved, or ratified by
24 any public employee relations board or commission,
25 or by any State or political subdivision or an agent

1 or management official of such State or political
2 subdivision; and

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

5 **SEC. 7. EXCEPTIONS.**

6 (a) IN GENERAL.—The Authority shall not make a
7 determination under section 3(a)(1) that the laws of a
8 State do not substantially provide for the rights and proce-
9 dures under section 3(b) on the basis that relevant State
10 laws—

11 (1) permit a public or supervisory employee to
12 appear on the employee’s own behalf with respect to
13 the relationship of the public employee with the pub-
14 lic employer involved;

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

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

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

22 (B) the State in which such political sub-
23 division is located notifies the Authority that
24 such subdivision is exempt from such laws be-

1 fore the date on which the Authority makes the
2 determination; or

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

5 (b) COMPLIANCE.—

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

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

14 (A) to require the District of Columbia to
15 rescind—

16 (i) section 501 of the District of Co-
17 lumbia Government Comprehensive Merit
18 Personnel Act of 1978 (1–605.01, D.C.
19 Official Code), establishing the Public Em-
20 ployee Relations Board of the District of
21 Columbia; or

22 (ii) section 502 of such Act (1–
23 605.02, D.C. Official Code), establishing
24 the power of the Board;

1 (B) to preempt the laws described in sub-
2 paragraph (A); or

3 (C) to limit or alter the powers of the gov-
4 ernment of the District of Columbia pursuant
5 to the District of Columbia Home Rule Act
6 (Public Law 93–198; 87 Stat. 774).

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

9 (A) the laws of any State or political sub-
10 division of a State that substantially provide for
11 the rights and procedures described in section
12 3(b);

13 (B) the laws of any State or political sub-
14 division of a State that substantially provide for
15 the rights and procedures described in section
16 3(b), solely because such laws provide that a
17 contract or memorandum of understanding be-
18 tween a public employer and a labor organiza-
19 tion must be presented to a legislative body as
20 part of the process for approving such contract
21 or memorandum of understanding; or

22 (C) the laws of any State or political sub-
23 division of a State that permit or require a pub-
24 lic employer to recognize a labor organization
25 on the basis of signed authorizations executed

1 by employees designating the labor organization
2 as their representative.

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

10 **SEC. 8. SEVERABILITY.**

11 If any provision of this Act or the application thereof
12 to any person or circumstance is held invalid, the remain-
13 der of this Act, or the application of that provision to per-
14 sons or circumstances other than those as to which it is
15 held invalid, is not affected thereby.

16 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums
18 as may be necessary to carry out this Act.